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Pages 43041-43182

Federal Register

Monday
November 9, 1987

Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

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How To Cite This Publication: Use the volume number and the page number. Example: 52 FR 12345.

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: November 20, at 9 a.m.
WHERE: National Archives and Records Administration, Room 410, 8th and Pennsylvania Avenue NW., Washington, DC.
RESERVATIONS: Robert D. Fox, 202–523–5239.

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Presidential Documents

Title 3—

The President

Proclamation 5736 of November 5, 1987

To Establish a Special Limited Global Import Quota for Upland Cotton

By the President of the United States of America

A Proclamation

1. Section 103A(o)(1) of the Agricultural Act of 1949, as added by section 501 of the Food Security Act of 1985 (7 U.S.C. 1444–1(o)(1)), provides that whenever the Secretary of Agriculture determines that the average price of Strict Low Middling one and one-sixteenth inch cotton (micronaire 3.5 through 4.9), hereinafter referred to as "Strict Low Middling cotton," in the designated spot markets for a month exceeded 130 percent of the average price of such quality of cotton in such markets for the preceding 36 months, notwithstanding any other provision of law, the President shall immediately establish and proclaim a special limited global import quota for upland cotton. The amount of such quota, if no special quota has been established under that section during the previous 12 months, is to be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available and is to remain in effect for a 90-day period.

2. The Secretary of Agriculture has informed me that he has determined that the average price of Strict Low Middling cotton in the designated spot markets for the month of August 1987 has exceeded 130 percent of the average price of such cotton in such markets for the preceding 36 months. The Secretary's determination was based upon the following data:

(a) The average price of Strict Low Middling cotton in the designated spot markets for the month of August 1987 was 75.89 cents per pound.

(b) The average price of Strict Low Middling cotton in the designated spot markets for the 36 months preceding the month of August 1987 was 57.89 cents per pound.

3. Twenty-one days of domestic mill consumption of upland cotton, which is any variety of the Gossypium hirsutum species of cotton, at the seasonally adjusted rate of the most recent 3 months for which data are available is 303,894,717 pounds.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by the authority vested in me by the Constitution and statutes of the United States of America, including section 103A(o)(1) of the Agricultural Act of 1949, as added by section 501 of the Food Security Act of 1985, and in order to establish a special 90-day limited global import quota for 303,894,717 pounds of upland cotton, do hereby proclaim as follows:

Part 3 of the Appendix to the Tariff Schedules of the United States is hereby modified by inserting in numerical sequence the following temporary provision:

"Item	Article	Quota quantity (in pounds)
955.07	Notwithstanding any other quantitative limitations on the importation of cotton, upland cotton, if accompanied by an original certificate of an official of a government agency of the country in which the cotton was produced attesting to the fact that cotton is a variety of Gossypium hirsutum species of cotton, may be entered during the 90-day period November 6, 1987, through February 3, 1988, . ..	303,894,717 pounds".

The provisions of this Proclamation shall become effective on the day following the date of signature. The amendment made by this Proclamation to the Tariff Schedules of the United States shall expire on February 28, 1988.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of November, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 87-26053
Filed 11-6-87; 10:25 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5737 of November 5, 1987

National Community Education Day, 1987

By the President of the United States of America

A Proclamation

National Community Education Day reminds us that schools and colleges are institutions strongly woven into the fabric of our cities and towns and that they should command the sustained interest of the citizenry. Public education is a community project, and the lifelong mission of education involves everyone in the community.

Many areas do use community resources in education. Parents and other citizens examine their schools and determine how they can contribute to learning. Businesses and industries become aware of what local educational institutions are offering students and consider how they can contribute their own resources and practical skills to enhance learning and provide educational opportunities for learners of all ages and educational backgrounds. Through outreach, receptiveness, and cooperation, our communities can and do become more firmly interwoven with our schools in a commitment to better education for all generations.

The Congress, by Public Law 100–103, has designated November 17, 1987, as "National Community Education Day" and authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim November 17, 1987, as National Community Education Day. I invite parents, educators, students, State and local officials, and all Americans to take part in activities that recognize and show appreciation for the role of community resources in education.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of November, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 87–26054
Filed 11–6–87; 10:26 am]
Billing Code 3195–01–M

Presidential Documents

Executive Order 12614 of November 5, 1987

Presidential Task Force on Market Mechanisms

By the authority vested in me as President by the Constitution and laws of the United States of America, it is hereby ordered as follows:

Section 1. *Establishment of Task Force.* (a) There is hereby established the Presidential Task Force on Market Mechanisms. The Task Force shall be composed of five persons appointed by the President.

(b) The President shall designate a chairman from among the members of the Task Force.

Sec. 2. *Purpose and Functions.* (a) The Task Force shall review relevant analyses of the current and long-term financial condition of the Nation's securities markets; identify problems that may threaten the short-term liquidity or long-term solvency of such markets; analyze potential solutions to such problems that will both assure the continued smooth functioning of free, fair, and competitive securities markets and maintain investor confidence in such markets; and provide appropriate recommendations to the President, to the Secretary of the Treasury, and to the Chairman of the Board of Governors of the Federal Reserve System.

(b) The Task Force shall submit its recommendations within 60 days from the date hereof.

Sec. 3. *Administration.* (a) The heads of Executive departments, agencies, and independent instrumentalities shall, to the extent permitted by law, provide the Task Force such information as it may require for the purpose of carrying out its functions.

(b) Members of the Task Force shall serve without any additional compensation for their work on the Task Force. However, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service, to the extent funds are available therefor.

(c) The Task Force shall have a staff headed by an Executive Director. To the extent permitted by law and subject to the availability of funds therefor, the Executive Office of the President and the Department of the Treasury shall provide the Task Force with such administrative services, funds, facilities, staff, and other support service as may be necessary for the performance of its functions.

Sec. 4. *Termination of Task Force.* The Task Force shall terminate 30 days after submitting its report.

Ronald Reagan

THE WHITE HOUSE,
November 5, 1987.

[FR Doc. 87-26055
Filed 11-6-87; 10:27 am]
Billing code 3195-01-M

Rules and Regulations

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 831

Retirement; Service Credit

AGENCY: Office of Personnel Management.

ACTION: Final rules.

SUMMARY: The Office of Personnel Management (OPM) is issuing final rules implementing changes in the law granting service credit under the Civil Service Retirement System (CSRS). Rules concerning service credit under the Federal Employees Retirement System were published separately. These rules establish procedures to allow some Federal employees and Members to receive retirement credit for certain service with the Cadet Nurse Corps during World War II; with nonappropriated fund instrumentalities after June 18, 1952, but before January 1, 1966; and with the National Guard as a technician before January 1, 1969.

EFFECTIVE DATE: December 9, 1987.

FOR FURTHER INFORMATION CONTACT: Patricia A. Rochester, (202) 632–4682.

SUPPLEMENTARY INFORMATION: On February 6, 1987, we published (at 52 FR 3785) interim procedures allowing service credit for certain Cadet Nurse Corps, nonappropriated fund, and National Guard technician service. Interested parties were given until April 7, 1987, to submit comments.

We received two comments. In addition to a number of clarifying editorial changes, we made the following changes based on the suggestions in the comments. First, we amended each section to indicate that deposits for these periods of service will be computed (including interest) as specified in sections 8334(e) (2) and (3) of title 5, United States Code. Secondly, we added language in §§ 831.304 and 831.306 clarifying the fact that deposits for service as a Cadet nurse and a National Guard technician must be completed through the individual's employing agency before the individual is separated for retirement purposes. The "deemed" deposit provisions which normally apply in computing the "alternative form of annuity" will not apply to these two types of service credit deposits. Thirdly, we added language to § 831.305 to indicate the nonappropriated fund (NAF) positions creditable under CSRS and that service with an NAF instrumentality may not be used to obtain both CSRS retirement benefits and NAF retirement benefits. The law intended only to allow credit for such service where no credit had previously been given toward a retirement plan benefit.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this rule will not have a significant economic impact on a substantial number of small entities because it will only affect retirement payments to retired Government employees, spouses, and former spouses.

List of Subjects in 5 CFR Part 831

Administrative practice and procedure, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Retirement.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

Accordingly, OPM is amending 5 CFR Part 831 as follows:

PART 831—RETIREMENT

Subpart C—Credit for Service

1. The authority citation for Subpart C of Part 831 continues to read as follows:

Authority: 5 U.S.C. 8347.

2. In Subpart C, §§ 831.304, 831.305, and 831.306 are revised to read as follows:

§ 831.304 Service with the Cadet Nurse Corps during World War II.

(a) *Definitions and special usages.* In this section—(1) "Basic pay" is computed at the rate of $15 per month for the first 9 months of study; $20 per month for the 10th through the 21st month of study; and $30 per month for any month in excess of 21.

(2) "Cadet Nurse Corps service" means any student or graduate nurse training, in a non-Federal institution, as a participant in a plan approved under section 2 of the Act of June 15, 1943 (57 Stat. 153).

(3) "CSRS" means the Civil Service Retirement System.

(b) *Conditions for creditability.* As provided by Pub. L. 99–638, an individual who performed service with the Cadet Nurse Corps is entitled to credit under CSRS if—

(1) The service as a participant in the Corps totaled 2 years or more;

(2) The individual submits an application for service credit to OPM no later than January 10, 1988;

(3) The individual is employed by the Federal Government in a position subject to CSRS at the time he or she applies to OPM for service credit; and

(4) The individual makes a deposit for the service before separating from the Federal Government for retirement purposes. Contrary to the policy "deeming" the deposit to be made for alternative annuity computation purposes, these deposits must be physically in the possession of the individual's employing agency before his or her separation for retirement purposes.

(c) *Processing the application for service credit.* Upon receiving an application requesting credit for service with the Cadet Nurse Corps, OPM will determine whether all conditions for creditability have been met, compute the deposit (including any interest) as specified by sections 8334(e) (2) and (3) of title 5, United States Code, based upon the appropriate percentage of basic pay that would have been deducted from the individual's pay at the time the service was performed, and advise the agency and the employee of the total amount of the deposit due.

(d) *Agency collection and submission of deposit.* (1) The individual's employing agency must establish a deposit account showing the total amount due and a payment schedule

(unless deposit is made in one lump sum), and record the date and amount of each payment.

(2) If the individual cannot make payment in one lump sum, the employing agency must accept installment payments (by allotments or otherwise). However, the employing agency is not required to accept individual checks in amounts less than $50.

(3) If the employee dies before completing the deposit, the surviving spouse may elect to complete the payment to the employing agency in one lump sum; however, the surviving spouse will not be able to initiate an application for such service credit.

(4) Payments received by the employing agency must be remitted to OPM immediately for deposit to the Civil Service Retirement and Disability Fund.

(5) Once the employee's deposit has been paid in full or closed out, the employing agency must submit the documentation pertaining to the deposit to OPM in accordance with published instructions.

§ 831.305 Service with a nonappropriated fund instrumentality after June 18, 1952, but before January 1, 1966.

(a) *Definitions and special usages.* In this section—(1) Service in a "nonappropriated fund instrumentality" is any service performed by an employee that involved conducting arts and crafts, drama, music, library, service (i.e., recreation) club, youth activities, sports or recreation programs (including any outdoor recreation programs) for personnel of the armed forces. Service is not creditable if it was performed in programs other than those specifically named in this subsection.

(2) "Certification by the head of a nonappropriated fund instrumentality" can also be certification by the National Personnel Records Center or by an official of another Federal agency having possession of records that will verify an individual's service.

(3) "CSRS" means the Civil Service Retirement System.

(b) *Conditions for creditability.* Pursuant to Pub. L. 99–638 and provided the same period of service has not been used to obtain annuity payable from a nonappropriated fund retirement plan, an individual who performed service in a nonappropriated fund instrumentality is entitled to credit under CSRS if—

(1) The service was performed after June 18, 1952, but before January 1, 1966; and

(2) The individual was employed in a position subject to CSRS on November 9, 1986.

(c) *Deposit for service is not necessary.* It is not necessary for an individual to make a deposit for service performed with a nonappropriated fund instrumentality to receive credit for such service. However, if the individual does not elect to make a deposit, his or her annuity is reduced by 10 percent of the amount that should have been deposited for the period of service (including any interest) as specified by sections 8334(e) (2) and (3) of title 5, United States Code. When an employee elects an alternative annuity and also elects to make the deposit, OPM will deem the deposit to be made for purposes of conputing the alternative annuity.

§ 831.306 Service as a National Guard technician before January 1, 1969.

(a) *Definitions.* In this section—(1) "Service as a National Guard technician" is service performed under section 709 of title 32, United States Code (or under a prior corresponding provision of law) before January 1, 1969.

(2) "CSRS" means the Civil Service Retirement System.

(b) *Conditions for creditability.* Pursuant to Pub. L. 99–661, an individual who performs service as a National Guard technician during the period prior to January 1, 1969, is entitled to credit under CSRS if—

(1) The individual submits an application for service credit to OPM no later than January 14, 1988;

(2) The individual is employed by the Federal Government in a position subject to CSRS (but not as a reemployed annuitant) on the date he or she applies to OPM for service credit; and

(3) The individual makes a deposit for the service before separating from the Federal Government for retirement purposes. Contrary to the policy "deeming" the deposit to be made for alternate annuity computation purposes, these deposits must be physically in the possession of the individual's employing agency before his or her separation for retirement purposes.

(c) *Processing the application for service credit.* Upon receiving an application requesting credit for service as a National Guard technician, OPM will determine whether all conditions for creditability have been met, compute the deposit (including interest) as specified by sections 8334(e) (2) and (3) of title 5, United States Code, based on the appropriate percentage of basic pay that would have been deducted from the individual's pay at the time the service was performed, and advise the agency and the employee of the amount of the deposit due.

(d) *Agency collection and submission of deposit.* (1) The individual's employing agency must establish a deposit account showing the total amount due and a payment schedule (unless deposit is made in one lump sum), and record the date and amount of each payment.

(2) If the individual cannot make payment in one lump sum, the employing agency must accept installment payments (by allotments or otherwise). However, the employing agency is not required to accept individual checks in amounts less than $50.

(3) If the employee dies before completing the deposit, the surviving spouse may elect to complete the payment in one lump sum; however, the surviving spouse will not be able to initiate an application for such credit.

(4) Payments received by the employing agency must be remitted to OPM immediately for deposit to the Civil Service Retirement and Disability Fund.

(5) Once the employee's deposit has been paid in full or closed out, the employing agency must submit the documentation pertaining to the deposit to OPM in accordance with instructions published in the Federal Personnel Manual.

[FR Doc. 87–25822 Filed 11–6–87; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 87–146]

Mediterranean Fruit Fly; Removal of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that removed a quarantine on portions of Dade County, Florida, and removed restrictions on the interstate movement of regulated articles from the quarantined areas. The quarantine had been imposed to prevent the artificial spread of the Mediterranean fruit fly into noninfested areas of the United States. We have determined that the Mediterranean fruit fly has been eradicated from these areas in Dade County, Florida, and the quarantine is no longer necessary.

EFFECTIVE DATE: December 9, 1987.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Operations Officer,

Domestic and Emergency Operations Staff, PPQ, APHIS, USDA, Room 611, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–6365.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the **Federal Register** on July 22, 1987 (52 FR 27528–27529, Docket No. 87–080) and effective on July 17, 1987, we removed a quarantine on portions of Dade County, Florida, that had been imposed because of the Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), and removed restrictions on the interstate movement of regulated articles from the quarantined portions of Dade County.

We solicited comments on the interim rule for 60 days, ending September 21, 1987. No comments were received. The facts presented in the interim rule still provide a basis for the rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule". Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and budget has waived its review process required by Executive Order 12291.

This amendment removes restrictions on the interstate movement of regulated articles from portions of Dade County, Florida. Very little commercial activity in the previously quarantined area is affected by this rule.

Specifically, the quarantined area was comprised of private residences and small shops. The small entities that may be affected by this regulation consist of approximately 70 nurseries, 40 retail stores, 90 Street vendors and open fruit stands, and 20 premises with orchards and vegetable plots (ranging in size from ¼ acre to ten acres). However, these small entities sell regulated articles primarily for local, intrastate, not interstate, movement. Also, many of the retail shops and nurseries sell other items in addition to the regulated articles so that the effect, if any, that this regulation will have on these entities appears to be minimal. Further, the number of affected entities mentioned above is small compared with the thousands of small entities that move these articles interstate from other states.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Mediterranean fruit fly, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Authority: U.S.C. 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR Part 301 and that was published in the **Federal Register** on July 22, 1987 (52 FR 27528–27529).

Done in Washington, DC, this 4th day of November 1987.

Donald Houston

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 87–25929 Filed 11–6–87; 8:45 am]

BILLING CODE 3410–34–M

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7 CFR Part 301

[Docket No. 87–129]

Oriental Fruit Fly

AGENCY: Animal and Plant Health Inspection Service,

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that quarantined portions of Los Angeles and Orange Counties in California because of the Oriental fruit fly and restricted the interstate movement of regulated articles from the quarantined areas. The interim rule was necessary on an emergency basis to prevent the artifical spread of the Oriental fruit fly into noninfested areas of the United States.

EFFECTIVE DATE: December 9, 1987. The incorporation of certain publications listed in the regulations was approved by this Director of the Federal Register on July 22, 1987.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Operations Officer, Domestic and Emergency Operations Staff, PPQ, APHIS, USDA, Room 611, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–6365

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the **Federal Register** on July 22, 1987 (52 FR 27529–27536, Docket Number 87–095) and effective July 17, 1987, we quarantined portions of Los Angeles and Orange Counties in California because of the Oriental fruit fly and restricted the interstate movement of regulated articles from the quarantined areas.

We solicited comments on the interim rule for 60 days, ending September 21, 1987. We received no comments. The facts presented in the interim rule still provide a basis for the rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information complied by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Within the quarantined area, fewer than 60 small entities may be affected. These include commercial growers of tomatoes and cucumbers, no more than 9 outdoor or mobile fruit stands, 38 nurseries and 2 community gardens.

Except for the nurseries, most of the sales by these entities are local, intrastate, and would not be affected by the quarantine. Impact on the nurseries will be minimized by use of the authorized soil treatment, which is effective immediately after application. The two chief products of commercial growers in the regulated areas, tomatoes and cucumbers, may be moved immediately following methyl bromide treatment of the articles, which takes only a few hours. The malathion bait spray treatment authorized for premises, which takes 21 to 30 days and is applied during the growing period, should not delay harvest and shipment.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Oriental fruit fly.

PART 301—DOMESTIC QUARANTINE NOTICES

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 161, 162, and 167; 7 CFR 2.17, 2.51, and 371.2(c).

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR Part 301 and that was published in the **Federal Register** on July 22, 1987 (52 FR 27529–27536).

Done at Washington, DC, this 4th day of November, 1987.

Donald Houston,

Administrator Animal and Plant Health Inspection Service.

[FR Doc. 87–25930 Filed 11–6–87; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 274a

[INS 1046–87]

Control of Employment of Aliens

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule amends the regulations at 8 CFR 274a.6, defining procedures for state employment agencies in verifying the identity and employment eligibility of individuals and certifying verifications to employers. Participation by state employment agencies in the employment eligibility verification system is authorized by section 274A(a)(5) of the Immigration and Nationality Act (the Act), as amended by the Immigration Reform and Control Act of 1986 (IRCA). Final rules at 8 CFR 274a.6, implementing section 274A(a)(5) of the Act, were published in the **Federal Register** on May 1, 1987, 52 FR 16221–16228, and became effective on June 1, 1987. This interim rule is predicated upon recommendations in response to those final rules from the United States Employment Service (USES), the Interstate Conference of Employment Security Agencies (ICESA), its constituent organizations, and interested parties. This interim rule revises 8 CFR 274a.6 by: (1) Distinguishing between the verification and certification processes; (2) requiring direct transmittal of a certification from a state employment agency to an employer; (3) requiring certification issuance relating only to an individual who is actually hired by the employer to which referred by the state employment agency; (4) requiring the state employment agency to issue a certification so that it will be received by the employer within 21 business days of the date that the referred individual is hired; (5) permitting a job order or other appropriate referral form issued by the state employment agency, or an employer's record of a telephonic referral, to serve as evidence of the employer's compliance with the verification requirements during the 21 business-day period following the date that the individual is hired; (6) enabling a participating state employment agency to elect not to conduct the verification process or issue a certification relating to an agency-referred individual hired by an employer for a period of employment not exceeding three days in duration; (7) redefining the contents of the certification; (8) revising guidelines for record retention by state employment agencies; (9) specifying employment verification requirements in the case of an individual who was previously referred and certified by a state employment agency; (10) delineating employment verification requirements relating to the rehiring of an individual by an employer, who was previously certified to the same employer; and (11) deleting reference to the liability of state employment agencies under the penalty provisions of sections 274A(e) and 274A(f) of the Act, and 8 CFR 274a.10. Prompt establishment of the requirements and procedures contained in this interim rule is necessary to ensure that Service operations are conducted in a manner consistent with the public interest, and to effect Congressional intent and the objectives of the law. For these reasons, this rule is published as an interim rule with a request for comments.

DATE: Interim final rule effective November 9, 1987; comments must be submitted on or before January 8, 1988.

ADDRESS: Written comments must be submitted in triplicate and mailed to: Investigations Division, Immigration and Naturalization Service, 425 I Street, NW., Room 2207, Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT: Walter D. Cadman, Deputy Assistant Commissioner, Investigations Division, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone (202) 633–2997.

SUPPLEMENTARY INFORMATION:

Background

On November 6, 1986, the President signed into law the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. 99–603. This legislation is the most comprehensive reform of the nation's immigration laws in 35 years. IRCA created prohibitions against knowingly employing aliens who are not authorized to work in the United States, established employment verification requirements, provided for enhanced enforcement measures, instituted a program for legalization of qualifying aliens, and effected new antidiscrimination provisions for unfair immigration-related employment practices.

Section 101 of IRCA added section 274A to the Immigration and Nationality Act (the Act). This section renders it unlawful for a person or other entity, after November 6, 1986, to hire, or to recruit or refer for a fee for employment, an individual knowing that he or she is not authorized by law to work in the

United States. Section 274A of the Act also prohibits a person or entity from continuing to employ an individual, hired after November 6, 1986, knowing that he or she is or has become unauthorized to work in the United States. To control unlawful employment, the statute imposes a graduated scale of civil penalties on those who violate these provisions. Employers who engage in a pattern or practice of violations are subject to criminal penalties.

Additionally, section 274A(b) of the Act, and its augmenting regulations at 8 CFR 274a.2, define an employment eligibility verification system which requires an employer to verify the identity and employment eligibility of all individuals hired after November 6, 1986. Recruiters and referrers for a fee must verify all persons recruited or referred after May 31, 1987, if the person is hired by the employer to which referred. Verification procedures require an employer, recruiter, or referrer to examine a document or combination of documents presented by the newly hired or referred individual evidencing identity and employment eligibility. Recordation of the verification is made by the employer, recruiter, or referrer on the Employment Eligibility Verification Form, I–9. The individual must attest on Form I–9 that he or she is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized by law to work in the United States. The employer, recruiter, or referrer must attest on Form I–9 that he or she has verified the identity and employment eligibility of the individual through an examination of the document or documents presented by the individual. The statute further requires the employer to retain the Form I–9 for three years after the date that the individual is hired, or for one year after the employee is terminated, whichever period of time is longer. Regulations require a recruiter or referrer to retain a Form I–9 for a period of three years after the date that the individual is hired by the entity to which referred. Employers, recruiters, and referrers must make the form available for inspection by officers of the Service or the Department of Labor. The statute imposes civil money penalties for failure of the employer, recruiter, or referrer to comply with the verification requirements.

Authority

Section 274A(a)(5) of the Act permits a state employment agency to elect to verify through document examination the identity and employment eligibility of individuals referred to employers by the agency, and to provide to employers documentation certifying the verifications. An employer in receipt of a state agency certification need not conduct an examination of documentation evidencing the individual's identity and employment eligibility and need not complete a Form I–9 with respect to that individual. Pursuant to statute, if an employer retains the state employment agency certification for the length of time required for retention of a Form I–9 and makes the certification available to officers of the Service or the Department of Labor, the employer is deemed to have complied with the requirements of the employment verification system. This interim rule amends regulations at 8 CFR 274a.6 which specify verification and certification procedures for state employment agencies.

Regulatory History

The Service's efforts to promulgate rules implementing the employer provisions of IRCA were initiated immediately after the enactment of the law. The potential for significant involvement in the verification process by state employment agencies was recognized by Service officials early in the rulemaking process. Rules implementing section 274A(a)(5) of the Act needed to be drafted in a manner that would enable and encourage participation in the verification process by as many state employment agencies as possible. Service officials were cognizant of differences among the various state employment agency systems. Because participating agencies would need to maintain records of verification and issue certificates of verification, the most significant of these differences involved record-keeping capabilities and the extent and nature of record-keeping automation. To the extent possible, rules pertaining to section 274A(a)(5) of the Act needed to accommodate and address these differences.

Also, it became evident that participation by some state employment agencies would be contingent upon requirements imposed by final rules implementing and further defining verification procedures mandated at section 274A(b) of the Act. Because they would generally apply to participating state employment agencies, Service officials realized that the requirements would constitute factors in the decision to participate by officials of some state employment agencies. A possible need to amend final regulations at 8 CFR 274a.6, implementing section 274A(a)(5) of the Act, was envisioned by Service officials in the rulemaking process, and was stated in the preamble to the final regulations.

On January 20, 1987, the Service published a notice in the **Federal Register**, 52 FR 2115, to solicit comments from the public and other interested parties concerning draft rules implementing the employer provisions of IRCA. Interested parties were provided with preliminary working drafts of regulations for review and comment. The working draft included proposed state employment agency verification procedures predicated upon the use of the Form I–9 as the certification document. Comments received in response to the preliminary working draft revealed that additional regulatory development was needed in order to draft rules defining procedures that would be more conducive to state employment agency operations while addressing Service concerns relating to certification document integrity.

For this reason, in its proposed rules published for comment in the **Federal Register**, 52 FR 8762–8767, on March 19, 1987, the Service stated its desire for additional information concerning this matter. At 8 CFR 274a.6, the section designated for state employment agency verification and certification procedures, the Service stated the following:

> The Service desires to develop guidelines relating to [the] role of state employment agencies in the issuance of certificates pursuant to section 274A(a)(5) of the Act, and requests the suggestions and comments of the public on this matter. A prime concern of the Service is the prevention of counterfeiting or misuse of such certificates while limiting the burden on state agencies in their issuance.

In response to this solicitation, the Service received a number of written and verbal comments from the United States Employment Service (USES) and the Interstate Conference of Employment Security Agencies (ICESA), the recognized organization representing state employment agencies. Comments were also received from the employment agencies of several states and other interested parties. Service officials also attended several meetings with representatives of state employment agencies. Based upon these comments and communications, it was apparent that final rules pertaining to state employment agency verification and certification would probably need to be amended. However, because the Act required publication of effective rules by June 1, 1987, and because it was deemed in the public interest, Service officials decided to proceed with the publication of final rules pertaining to state employment agencies and to advise the public in the preamble to the rules of the

potential need for amendment. Rules at 8 CFR 274a.6 were published in the **Federal Register**, 52 FR 16221–16228, on May 1, 1987, in conjunction with final rules implementing the employer provisions of IRCA. In the preamble to the rules the Service stated the following:

> The rule provides for procedures relating to verification by a state employment agency. These procedures were developed on the basis of discussions with state employment agencies. INS also attended several open forums at which state employment agencies were well represented. INS anticipates that future modifications to this rule will be forthcoming in order to further develop standardized certification forms and procedures for all state agencies which choose to exercise the option to issue certifications which is granted them under the statute.

Throughout the rulemaking process, the Service has been in consultation with USES and ICESA. Since the publication of final rules on May 1, 1987, the Service has continued the mutual dialogue with ICESA and its constituent organizations for the purpose of revising the regulations to permit participation in the verification process by as many state employment agencies as possible and to minimize their burden in issuing certificates of verification.

Interim Rule

This rule, which is published as an interim rule with an immediate effective date and a 60-day comment period, incorporates revisions recommended by ICESA. This rule revises final regulations at 8 CFR 274a.6, published in the **Federal Register**, 52 FR 16221, on May 1, 1987, by:

1. Distinguishing between the verification and certification processes;
2. Requiring direct transmittal of a certification from a state employment agency to an employer;
3. Requiring certification issuance relating only to an individual who is actually hired by the employer to which referred by the state employment agency;
4. Requiring the state employment agency to issue a certification so that it will be received by the employer within 21 business days of the date that the referred individual is hired;
5. Permitting a job order or other appropriate referral form issued by the state employment agency, or an employer's record of a telephonic referral, to serve as evidence of the employer's compliance with the verification requirements during the 21 business-day period following the date that the individual is hired;
6. Enabling a participating state employment agency to elect not to conduct the verification process or issue a certification relating to an agency-referred individual hired by an employer for a period of employment not exceeding three days in duration;
7. Redefining the contents of the certification to include:
   (a) A date of issuance;
   (b) The name and birth date of the referred individual;
   (c) An identification of the position or type of employment to which the individual was referred and a job order number assigned to the position;
   (d) An identification of the document or documents presented by the referred individual for verification purposes and the corresponding number(s) of the document(s);
8. Redefining the contents of the certification to eliminate the requirement that it contain the embossed seal of the state employment agency;
9. Requiring the individual to sign the certification in the presence of the employer upon receipt of the certification;
10. Requiring the certification to contain a statement that counterfeiting, falsification, unauthorized issuance or alteration of the certification constitutes a violation of federal law pursuant to Title 18, U.S.C. 1546;
11. Permitting a state employment agency to retain a Form I–9 used in the verification process either in its original form, on microfilm or microfiche;
12. Permitting a state employment agency to retain the certification in a manner determined by the agency that will enable the retrieval of the information contained on the original certification for comparison with the relating Form I–9;
13. Specifying employment verification requirements in the case of an individual who was previously referred and certified by a state employment agency; and
14. Delineating employment verification requirements relating to the rehiring of an individual by an employer, who was previously certified to the same employer.
15. Deleting reference to the liability of state employment agencies under the penalty provisions of sections 274A(e) and 274A(f) of the Act, and 8 CFR 274a.10.

Justification for Interim Rule

The Immigration and Naturalization Service is invoking the "good cause" exception to the notice of proposed rulemaking requirement of 5 U.S.C. 553(b). The justification for waiving notice of proposed rulemaking is as follows: Notice of this rule and relevant public procedure would be contrary to the public interest. This rule is necessary in order to ensure maximum participation as intended by Congress in the verification system by state employment agencies, to ameliorate procedural difficulties in some state employment agency systems occasioned by the requirements of the current rule, and to enhance the security and integrity of the employment verification system.

At a meeting held at the Service's Central Office on June 19, 1987, representatives of USES, ICESA, and other parties advised Service officials to promulgate an interim rule effective upon publication with a comment period. ICESA and state officials at the meeting stressed the need for expeditious publication of the interim rule to enable a number of state employment agencies to respond to public and constituent interest by participating in the verification system. Therefore, the Service believes the public interest is served by invoking the "good cause" exception to the notice of proposed rulemaking and the 30-day effective date requirements of 5 U.S.C. 553 (b) and (d), and by implementing this rule effective immediately with a 60-day comment period.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization Service certifies that this rule will not have significant impact on a substantial number of small entities.

This rule is not a major rule as defined within the meaning of section 1(b) of EO 12291.

The information collection requirements contained in this rule have been approved by the Office of Management and Budget, under the provisions of the Paperwork Reduction Act, under control number 1115–0136.

List of Subjects in 8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment.

For the reasons set out in the preamble, INS amends Chapter I of Title 8 of the Code of Federal Regulations as follows:

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

1. The authority citation for Part 274a is revised to read as follows:

> **Authority:** 8 U.S.C. 1101, 1103, 1324A.

2. Section 274a.6 is revised to read as follows:

§ 274a.6 State employment agencies.

(a) *General.* Pursuant to sections 274A(a)(5) and 274A(b) of the Act, a state employment agency as defined in § 274a.1 of this part may, but is not required to, verify identity and employment eligibility of individuals referred for employment by the agency. However, should a state employment agency choose to do so, it must:

(1) Complete the verification process in accordance with the requirements of § 274a.2(b) of this part *provided* that the individual may not present receipts in lieu of documents in order to complete the verification process as otherwise permitted by § 274a.2(b)(1)(vi) of this part; and

(2) Complete the verification process prior to referral for all individuals for whom a certification is required to be issued pursuant to paragraph (c) of this section.

(b) *Compliance with the provisions of section 274A of the Act.* A state employment agency which chooses to verify employment eligibility of individuals pursuant to § 274a.2(b) of this part shall comply with all provisions of section 274A of the Act and the regulations issued thereunder.

(c) *State employment agency certification.* (1) A state employment agency which chooses to verify employment eligibility pursuant to paragraph (a) of this section shall issue to an employer who hires an individual referred for employment by the agency, a certification as set forth in paragraph (d) of this section. The certification shall be transmitted by the state employment agency directly to the employer, personally by an agency official, or by mail, so that it will be received by the employer within 21 business days of the date that the referred individual is hired. In no case shall the certification be transmitted to the employer from the state employment agency by the individual referred. During this period:

(i) The job order or other appropriate referral form issued by the state employment agency to the employer, on behalf of the individual who is referred and hired, shall serve as evidence, with respect to that individual, of the employer's compliance with the provisions of section 274A(a)(1)(B) of the Act and the regulations issued thereunder.

(ii) In the case of a telephonically authorized job referral by the state employment agency to the employer, an appropriate annotation by the employer shall be made and shall serve as evidence of the job order. The employer should retain the document containing the annotation where the employer retains Forms I–9.

(2) Job orders or other referrals, including telephonic authorizations, which are used as evidence of compliance pursuant to paragraph (c)(1)(i) of this section shall contain:

(i) The name of the referred individual;

(ii) The date of the referral;

(iii) The job order number or other applicable identifying number relating to the referral;

(iv) The name and title of the referring state employment agency official; and

(v) The telephone number and address of the state employment agency.

(3) A state employment agency shall not be required to verify employment eligibility or to issue a certification to an employer to whom the agency referred an individual if the individual is hired for a period of employment not to exceed 3 days in duration. Should a state agency choose to verify employment eligibility and to issue a certification to an employer relating to an individual who is hired for a period of employment not to exceed 3 days in duration, it must verify employment eligibility and issue certifications relating to *all* such individuals. Should a state employment agency choose not to verify employment eligibility or issue certifications to employers who hire, for a period not to exceed 3 days in duration, agency-referred individuals, the agency shall notify employers that, as a matter of policy, it does not perform verifications for individuals hired for that length of time, and that the employers must complete the identity and employment eligibility requirements pursuant to § 274a.2(b) of this part. Such notification may be incorporated into the job order or other referral form utilized by the state employment agency as appropriate.

(4) An employer to whom a state employment agency issues a certification relating to an individual referred by the agency and hired by the employer, shall be deemed to have complied with the verification requirements of § 274a.2(b) of this part provided that the employer:

(i) Reviews the identifying information contained in the certification to ensure that it pertains to the individual hired;

(ii) Observes the signing of the certification by the individual at the time of its receipt by the employer as provided for in paragraph (d)(13) of this section;

(iii) Complies with the provisions of § 274a.2(b)(1)(vii) of this part by either:

(A) Updating the state employment agency certification in lieu of Form I–9, upon expiration of the employment authorization date, if any, which was noted on the certification issued by the state employment agency pursuant to paragraph (d)(11) of this section; or

(B) By no longer employing an individual upon expiration of his or her employment authorization date noted on the certification;

(iv) Retains the certification in the same manner prescribed for Form I–9 in § 274a.2(b)(2) of this part, to wit, three years after the date of the hire or one year after the date the individual's employment is terminated, whichever is later; and

(v) Makes it available for inspection to officers of the Service or the Department of Labor, pursuant to the provisions of section 274A(b)(3) of the Act, and § 274a.2(b)(2) of this part.

(5) Failure by an employer to comply with the provisions of paragraph (c)(4)(iii) of this section shall constitute a violation of section 274A(a)(2) of the Act and shall subject the employer to the penalties contained in section 274A(e)(4) of the Act, and § 274a.10 of this part.

(d) *Standards for state employment agency certifications.* All certifications issued by a state employment agency pursuant to paragraph (c) of this section shall conform to the following standards. They must:

(1) Be issued on official agency letterhead;

(2) Be signed by an appropriately designated official of the agency;

(3) Bear a date of issuance;

(4) Contain the employer's name and address;

(5) State the name and date of birth of the individual referred;

(6) Identify the position or type of employment for which the individual is referred;

(7) Bear a job order number relating to the position or type of employment for which the individual is referred;

(8) Identify the document or documents presented by the individual to the state employment agency for the purposes of identity and employment eligibility verification;

(9) State the identifying number or numbers of the document or documents described in paragraph (d)(8) of this section;

(10) Certify that the agency has complied with the requirements of section 274A(b) of the Act concerning verification of the identity and employment eligibility of the individual referred, and has determined that, to the best of the agency's knowledge, the individual is authorized to work in the United States;

(11) Clearly state any restrictions, conditions, expiration dates or other limitations which relate to the individual's employment eligibility in the United States, or contain an affirmative statement that the employment authorization of the referred individual is not restricted;

(12) State that the employer is not required to verify the individual's identity or employment eligibility, but must retain the certification in lieu of Form I–9;

(13) Contain a space or a line for the signature of the referred individual, requiring the individual under penalty of perjury to sign his or her name before the employer at the time of receipt of the certification by the employer; and

(14) State that counterfeiting, falsification, unauthorized issuance or alteration of the certification constitutes a violation of federal law pursuant to Title 18, U.S.C 1546.

(e) *Retention of Form I–9 by state employment agencies.* A Form I–9 utilized by a state employment agency in verifying the identity and employment eligibility of an individual pursuant to § 274a.2(b) of this part must be retained by a state employment agency for a period of three years from the date that the individual was last referred by the agency and hired by an employer. A state employment agency may retain a Form I–9 either in its original form, or on microfilm or microfiche.

(f) *Retention of state employment agency certifications.* A certification issued by a state employment agency pursuant to this section shall be retained:

(1) By a state employment agency, for a period of three years from the date that the individual was last referred by the agency and hired by an employer, and in a manner to be determined by the agency which will enable the prompt retrieval of the information contained on the original certification for comparison with the relating Form I–9;

(2) By the employer, in the original form, and in the same manner and location as the employer has designated for retention of Forms I–9, and for the period of time provided in paragraph (c)(4)(iv) of this section.

(g) *State employment agency verification requirements in the case of an individual who was previously referred and certified.* When a state employment agency refers an individual for whom the verification requirements have been previously complied with and a Form I–9 completed, the agency shall inspect the previously completed Form I–9:

(1) If, upon inspection of the Form, the agency determines that the Form I–9 pertains to the individual and that the individual remains authorized to be employed in the United States, no additional verification need be conducted and no new Form I–9 need be completed prior to issuance of a new certification *provided* that the individual is referred by the agency within 3 years of the execution of the initial Form I–9.

(2) If, upon inspection of the Form, the agency determines that the Form I–9 pertains to the individual but that the individual does not appear to be authorized to be employed in the United States based on restrictions, expiration dates or other conditions annotated on the Form I–9, the agency shall not issue a certification unless the agency follows the updating procedures pursuant to § 274a.2(b)(1)(vii) of this part; otherwise the individual may no longer be referred for employment by the state employment agency.

(3) For the purposes of retention of the Form I–9 by a state employment agency pursuant to paragraph (e) of this section, for an individual previously referred and certified, the state employment agency shall retain the Form for a period of 3 years from the date that the individual is last referred and hired.

(h) *Employer verification requirements in the case of an individual who was previously referred and certified.* When an employer rehires an individual for whom the verification and certification requirements have been previously complied with by a state employment agency, the employer shall inspect the previously issued certification.

(1) If, upon inspection of the certification, the employer determines that the certification pertains to the individual and that the individual remains authorized to be employed in the United States, no additional verification need be conducted and no new Form I–9 or certification need be completed *provided* that the individual is rehired by the employer within 3 years of the issuance of the initial certification, and that the employer follows the same procedures for the certification which pertain to Form I–9, as specified in § 274a.2(c)(1)(i) of this part.

(2) If, upon inspection of the certification, the employer determines that the certification pertains to the individual but that the certification reflects restrictions, expiration dates or other conditions which indicate that the individual no longer appears authorized to be employed in the United States, the employer shall verify that the individual remains authorized to be employed and shall follow the updating procedures for the certification which pertain to Form I–9, as specified in § 274a.2(c)(1)(ii) of this part; otherwise the individual may no longer be employed.

(3) For the purposes of retention of the certification by an employer pursuant to this paragraph for an individual previously referred and certified by a state employment agency and rehired by the employer, the employer shall retain the certification for a period of 3 years after the date that the individual is last hired, or one year after the date the individual's employment is terminated, whichever is later.

Date: September 21, 1987.

Alan C. Nelson,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 87–25824 Filed 11–6–87; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87–ASW–30; Amdt. 39–5754]

Airworthiness Directives; Sikorsky Model S–76A/B Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires the removal of certain electrical door locking actuators on Sikorsky Model S–76A/B helicopters. The AD is needed to prevent the passenger doors from jamming in the locked position and prohibiting passenger emergency egress.

DATES: *Effective date:* December 10, 1987.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 10, 1987.

Compliance: As indicated in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from Sikorsky Aircraft, 6900 Main Street, Stratford, Connecticut 06601–1381.

A copy of the service bulletin is contained in the Rules Docket, Office of the Regional Counsel, Federal Aviation Administration, Fort Worth, Texas 76193–0007.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Federal Aviation Administration, ANE–153, 12 New England Executive Park, Burlington,

Massachusetts 01803, telephone (617) 273-7103.

SUPPLEMENTARY INFORMATION: Several cases of malfunctioning electrical door locking actuators on Sikorsky S-76A/B helicopters have been reported. With an actuator jammed in the locked position, the door cannot be opened and passenger emergency egress is prohibited. Since this condition may develop on other helicopters of the same type design, an AD is being issued which requires removal of certain electrical door locking actuators to prevent the door locks from jamming in the locked position.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained from the Regional Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the FAA amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Sikorsky Aircraft Division: Applies to all Sikorsky Model S-76A/B helicopters, certificated in all categories, equipped with electrical door locking actuators installed in accordance with Sikorsky Drawing 76088-20016 using actuator P/N 22020256 in left and right passenger doors.

Compliance is required within the next 25 hours' time in service after the effective date of this AD unless already accomplished.

To prevent the passenger door locks from jamming in the locked position due to a malfunctioning electrical door locking actuator, accomplish the following:

(a) Remove electrical door locking actuators, P/N 22020256, in accordance with Sikorsky Alert Sevice Bulletin (ASB) No. 76-52-10A, dated August 27, 1987.

Note.—Some of the actuators may not be identified with this P/N 22020256; however, as an alternate means of identifying these actuators, a housing/casting, P/N 20220307, appears on these units identifying them as GM actuators P/N 22020256.

(b) Upon request, with substantiating data, an alternate means of compliance which provides an equivalent level of safety or adjustment in the compliance time may be used when approved by the Manager, Boston Aircraft Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

These procedures shall be accomplished in accordance with Sikorsky ASB No. 76-52-10A, Revision A, dated August 27, 1987. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a)(1) and 1 CFR Part 51. Copies may be obtained from Sikorsky Aircraft, 6900 Main Street, Stratford, Connecticut 06601-1381. Copies may be inspected at the Office of the Regional Counsel, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas, or at the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington DC.

This amendment becomes effective on December 10, 1987.

Issued in Fort Worth, Texas, on October 7, 1987.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 87-25853 Filed 11-6-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AGL-2]

Alteration of Federal Airways V-7 and V-510

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters Federal Airways V-7 and V-510 to provide for more efficient north/south and east/west traffic flows primarily in the states of Wisconsin and Illinois. The first action realigns V-7 between Green Bay, WI, and Petty Intersection to improve the north/south flow. The second action deletes a portion of V-510 between Nodine, MN, and Lone Rock, WI, and extends V-510 from Nodine to Muskegon, MI, to improve east/west traffic flows.

EFFECTIVE DATE: 0901 UTC, January 14, 1988.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

On November 4, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign V-7 between Green Bay, WI, and Petty Intersection and delete a portion of V-510 from Nodine, MN, to Lone Rock, WI, and extend V-510 between Nodine and Muskegon, MI (51 FR 40036). Southern Wisconsin has historically exhibited a heavy use of north/south routings. Since 1980 routings oriented along east/west paths have increased dramatically in the area bounded by the cities of Madison, Milwaukee and Muskegon on the south and Eau Claire, Wausau, Green Bay and Traverse City on the north and this action improves traffic flow in the area. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes and a change to the alignment of V-510 by removing a segment between Dells and Oshkosh, WI, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters Federal Airways V-7 and V-510 to provide for more efficient north/south and east/west traffic flows primarily in the states of Wisconsin and Illinois. The

first action realigns V-7 between Green Bay, WI, and Petty Intersection to improve the north/south flow. The second action deletes a portion of V-510 between Nodine, MN, and Lone Rock, WI, and extends V-510 from Nodine to Muskegon, MI, to improve east/west traffic flows.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-7 [Amended]

By removing the words "INT Chicago Heights 358° and Green Bay WI, 166° radials;" and substituting the words "INT Chicago Heights 358° and Falls, WI, 170° radials; Falls;"

V-510 [Amended]

By removing the words "Nodine, Lone Rock. From Muskegon, MI;" and substituting the words "Nodine; Dells, WI From Oshkosh, WI; Falls, WI; INT Falls 114° and Muskegon, MI, 295° radials; Muskegon;"

Issued in Washington, DC, on October 30, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-25851 Filed 11-6-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 87-AWA-6]

Alteration of Jet Routes; Expanded East Coast Plan, Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of Jet Routes J-174 and J-209 located in the vicinity of New York. These jet routes are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is a part of Phase II of the Expanded East Coast Plan (EECP); Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

EFFECTIVE DATE: 0901 UTC, January 14, 1988.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

On July 8, 1987, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the descriptions of Jet Routes J-174, J-190, J-191, J-193, J-208, J-209, J-211 and J-221 located in the vicinity of New York (52 FR 25607). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Congressman Dean A. Gallo requested that implementation of Phase II of the EECP be suspended pending a full and complete study of the noise impact over the State of New Jersey.

People Against Newark Noise commented that certain residents of New Jersey object to changes in air routes which will bring jet noise upon previously peaceful communities. Environmental assessment of airspace actions by the FAA is conducted in accordance with FAA Order 1050.1D, Policies and Procedures for Handling Environmental Impacts. Appendix 3 of the order requires environmental assessment of a Part 75 airspace action only when it would result in rerouting traffic over a noise-sensitive area at altitudes less than 3,000 feet above the surface. No such low-altitude routings were involved in the airway modification adopted in this amendment, and an environmental assessment was not required. With respect to the studies being conducted by the General Accounting Office and the New Jersey state government, the FAA will fully consider the results of these studies when completed. However, in consideration of the importance of the airway actions for the safe and efficient handling of air traffic on the east coast, and of the fact that the agency has complied with Federal environmental review requirements, the FAA does not believe that the action should be delayed pending the outcome of the studies.

People Against Newark Noise also questioned the basis for the FAA's determination that a regulatory evaluation is not required. The action does not meet the threshold requirements for a major rule under Executive Order 12291, and a regulatory impact analysis under that order is not required. Department of Transportation Regulatory Policies and Procedures (44 FR 11031) require an economic evaluation of agency rulemaking actions except in emergencies or when the agency determines that the economic impact is so minimal that the action does not warrant a full evaluation. Such a determination was made in this case, in consideration of the minimal economic impacts of the airway changes proposed. Similarly, a regulatory flexibility analysis is not required since this action will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

AOPA objected that this proposal will impose complicated routings and/or additional mileages. The FAA agrees there will be additional mileages on

certain airways due to the realignment of the standard instrument departures and standard terminal arrival routes. Nevertheless, this change in traffic flow has resulted in more than a 40% reduction in departure/arrival delays in the New York Metroplex area, thereby saving time and fuel. This action should more than offset the slight additional distance. The FAA does not consider these actions to constitute a complication of routing. Should unforeseen problems arise as a result of this phase of the EECP, the FAA would initiate appropriate remedial action as required.

The Air Transport Association (ATA) endorsed the objective of the EECP to establish an improved air traffic system which reduces delays for aircraft departing and arriving terminals in the eastern United States. However, ATA requested an overview of the total plan. Also, ATA requested a longer response time to the NPRM's because of the large volume of very technical and complicated material. FAA appreciates the comments and will carefully review and consider their suggestion.

Due to technical and administrative problems, J-174 and J-209 were removed from the docket and will be implemented at this time. Jet Routes J-190, J-193, J-211 and J-221 were published in the **Federal Register** and will be effective November 19, 1987. Implementation of Jet Routes J-191 and J-208 will be considered at a later date. With respect to J-209, the segment from Greenwood, SC, to Tar River, NC, is being published. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations alters the descriptions of J-174 and J-209 which were published in the notice and are located in the vicinity of New York. These routes are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. While eight jet routes were included in the notice and four to be implemented effective November 19, 1987, J-174 and J-209 were removed from the docket and are being implemented at this time. This amendment is a part of Phase II of the Expanded East Coast Plan (EECP); Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for Part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-174 [Amended]

By removing the words "Wilmington, NC;" and substituting the words "Wilmington, NC; Dixon NDB, NC;"

J-209 [Revised]

From Greenwood, SC; Raleigh-Durham, NC; Tar River, NC; Norfolk, VA; INT Norfolk 023° and Salisbury, MD, 199° radials; to Salisbury.

Issued in Washington, DC, on October 30, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-25852 Filed 11-6-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 86F-0333]

Indirect Food Additives; Paper and Paperboard Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of alkyl(C_{12}-C_{20})methacrylate-methacrylic acid copolymers as stabilizers in the manufacture of paper and paperboard for use in contact with food. This action responds to a petition filed by Allied Colloids, Inc.

DATES: Effective November 9, 1987; objections by December 9, 1987.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 22, 1986 (51 FR 30128), FDA announced that a petition (FAP 6B3911) had been filed by Allied Colloids, Inc., 2301 Wilroy Rd., Suffolk, VA 23434, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of alkyl(C_{12}-C_{20}) methacrylate-methacrylic acid copolymers as stabilizers in the manufacture of paper and paperboard for use in contact with food.

FDA has evaluated the data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency

will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

Any person who will be adversely affected by this regulation may at any time on or before December 9, 1987, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 176 is amended as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. The authority citation for 21 CFR Part 176 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 176.170(a)(5) is amended by alphabetically inserting a new item in the list of substances to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	Limitations
* * * * *	
Alkyl(C_{12}–C_{26})methacrylate-methacrylic acid copolymers (CAS Reg. No. 27401-06-5).	For use only as stabilizers employed prior to the sheet-forming operation in the manufacture of paper and paperboard.
* * * * *	

Dated: October 29, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87–25833 Filed 11–6–87; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 178

[Docket No. 84F-0085]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of didodecyl-1,4-dihydro-2,6-dimethyl-3,5-pyridinedicarboxylate as a stabilizer in vinyl chloride polymers intended for use in contact with food. This action responds to a petition filed by M&T Chemicals, Inc.

DATES: Effective November 9, 1987; objections by December 9, 1987.

ADDRESSES: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF–335), 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of April 26, 1984 (49 FR 18043), FDA announced that a petition (FAP 4B3790) had been filed by M&T Chemicals, Inc., P.O. Box 1104, Rahway, NJ 07065, proposing that the food additive regulations be amended to provide for the safe use of didodecyl-1,4-dihydro-2,6-dimethyl-3,5-pyridinedicarboxylate as a stabilizer for polyvinyl chloride and/or vinyl chloride copolymers intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive is safe, and that the regulations should be amended in 21 CFR 178.2010(b) as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

Any person who will be adversely affected by this regulation may at any time on or before December 9, 1987, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall

include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director and Deputy Director of the Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 178.2010 is amended in paragraph (b) by alphabetically inserting a new item in the list of substances to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * *	
Didodecyl-1,4-dihydro-2,6-dimethyl-3,5-pyridinedicarboxylate (CAS Reg. No. 36265-41-5).	For use only at levels not to exceed 0.3 percent by weight in rigid vinyl chloride polymer articles modified in accordance with § 178.3790 that contact food, under conditions of use E, F, and G described in Table 2 of § 176.170 of this chapter.
* * * * *	

Dated: October 28, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-25832 Filed 11-6-87; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Tioxidazole Paste

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Schering Corp. providing for the use of tioxidazole paste as an anthelmintic in horses.

EFFECTIVE DATE: November 9, 1987

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Schering Corp., 2000 Galloping Hill Rd., Kenilworth, NJ 07033, filed NADA 138-902, which provides for the oral administration of tioxidazole paste to horses. Tioxidazole paste is indicated for the removal of certain mature large strongyles, mature ascarids, mature and immature pinworms, and mature small strongyles. The NADA is approved and new 21 CFR 520.2473b is added to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Veterinary Medicine, Part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 [21 U.S.C. 360b(i)]; 21 CFR 5.10 and 5.83.

2. By adding a new § 520.2473b to read as follows:

§ 520.2473b Tioxidazole paste.

(a) *Specifications.* Each plastic syringe contains 6.25 grams of tioxidazole.

(b) *Sponsor.* See No. 000061 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Horses*—(i) *Amount.* 5 milligrams of tioxidazole per pound of body weight as a single dose.

(ii) *Indications for use.* Removal of mature large strongyles *(Strongylus edentatus, S. equinus,* and *S. vulgaris),* mature ascarids *(Parascaris equorum),* mature and immature (4th larval stage) pinworms *(Oxyuris equi),* and mature small strongyles *(Triodontophorus* spp.).

(iii) *Limitations.* Administer orally by inserting the nozzle of the syringe through the space between front and back teeth and deposit the required dose on the base of the tongue. Before dosing, make sure the horse's mouth contains no feed. Not for use in horses intended for food. The reproductive safety of tioxidazole in breeding animals has not been determined. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism. It is recommended that this drug be administered with caution to sick or debilitated horses.

(2) *[Reserved]*

Dated: October 30, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87-25895 Filed 11-6-87; 8:45 am]

BILLING CODE 4160-01-M

21 CFR PART 546

Tetracycline Antibiotic Drugs for Animal Use; Tetracycline Hydrochloride and Novobiocin Sodium Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by the

Upjohn Co. providing for the use of a higher strength combination drug product for treating certain upper respiratory infections in large dogs.

EFFECTIVE DATE: November 9, 1987.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed supplemental NADA 55–076 providing for oral use of a higher strength combination drug product containing tetracycline and novobiocin (Albaplex® Tablets, 3x) to treat certain respiratory infections of larger dogs. The product was first approved for certification on October 11, 1977. The supplement provides for use of a 3x tablet, 180 milligrams of tetracycline hydrochloride and 180 milligrams of novobiocin sodium, for veterinary prescription use for dogs at the currently approved dose equivalent to one tablet for each 18 pounds of body weight, given every 12 hours for at least 48 hours after signs of infection have disappeared, treatment not to exceed 10 days. The product is used for treatment of acute or chronic upper respiratory infections such as tonsilitis, bronchitis, and tracheobronchitis when caused by pathogens susceptible to novobiocin and/or tetracycline such as *Staphylococcus* spp. and *E. coli*. The supplement is approved and 21 CFR 546.160h is amended to reflect the approval.

Approval of this supplement is an administrative action that does not affect safety and effectiveness data upon which approval of the original NADA relies. The firm elected to submit, in accordance with the freedom of information provisions of 21 CFR Part 20 and 21 CFR 514.11(e)(2)(ii), a summary of information providing the basis of approval of this supplement. This summary is available for public inspection in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 546

Animal drugs, Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Veterinary Medicine, Part 546 is amended as follows:

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

1. The authority citation for 21 CFR Part 546 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 546.180h [Amended]

2. Section 546.180h *Tetracycline hydrochloride and sodium novobiocin tablets* is amended in paragraph (a)(1) in the second sentence by changing the period to a comma and by adding "or 180 milligrams of tetracycline hydrochloride and 180 milligrams of novobiocin.", and in paragraph (c)(4)(i) by revising the parenthetical phrase "(1 tablet for each 6 pounds)" to read "(1 single strength tablet for each 6 pounds or 1 triple strength tablet for each 18 pounds)".

Dated: November 3, 1987.

Richard A. Carnevale,

Acting Associate Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 87–25898 Filed 11–6–87; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 546

Tetracycline Antibiotic Drugs for Animal Use; Tetracycline Hydrochloride, Novobiocin Sodium, and Prednisolone Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by the Upjohn Co., providing for use of a higher strength combination drug product for treating certain upper respiratory infections in large dogs.

EFFECTIVE DATE: November 9, 1987

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed supplemental NADA 65–090 providing for oral use of a higher strength combination drug product containing tetracycline, novobiocin, and prednisolone (Delta Albaplex® Tablets, 3x) to treat certain respiratory infections of larger dogs. The product was first approved for certification on May 3, 1963. The supplement provides for use of a 3x tablet, 180 milligrams (mg) of tetracycline hydrochloride, 180 mg of novobiocin sodium, and 4.5 mg of prednisolone for veterinary prescription use for dogs at the currently approved dose equivalent to 1 tablet for each 18 pounds of body weight, given every 12 hours for 48 hours. The product is used for treatment of acute or chronic upper respiratory conditions (i.e., tonsilitis, bronchitis, and tracheobronchitis) when necessary to initially reduce the severity of clinical signs and when caused by pathogens susceptible to novobiocin and tetracycline such as *Staphylococcus* spp. and *Escherichia coli*. The supplement is approved and 21 CFR 546.180 is amended in paragraph (a)(1) by adding the phrase "or 180 milligrams of tetracycline hydrochloride, 180 milligrams of novobiocin, and 4.5 milligrams of prednisolone" at the end of the second sentence; and in paragraph (c)(4)(i) by revising the parenthetical phrase in the first sentence "(1 tablet for each 6 pounds)" to read "(1 single strength tablet for each 6 pounds or 1 triple-strength tablet for each 18 pounds)," to reflect the approval.

Approval of this supplement is an administrative action which does not affect safety and effectiveness data upon which approval of the original NADA relies. The firm elected to submit, in accordance with the freedom of information provisions of 21 CFR Part 20 and 21 CFR 514.11(e)(2)(ii), a summary of information providing the basis of approval of this supplement. This summary is available for public inspection in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 546

Animal drugs, Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to

the Director, Center for Veterinary Medicine, Part 546 is amended as follows:

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

1. The authority citation for 21 CFR Part 546 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 546.180i [Amended]

2. Section 546.180i *Tetracycline hydrochloride, sodium novobiocin, and prednisolone tablets* is amended in paragraph (a)(1) by adding the phrase "or 180 milligrams of tetracycline hydrochloride, 180 milligrams of novobiocin, and 4.5 milligrams of prednisolone" at the end of the second sentence, and in paragraph (c)(4)(i) by revising the parenthetical phrase in the first sentence "(1 tablet for each 6 pounds)" to read "(1 single-strength tablet for each 6 pounds or 1 triple-strength tablet for each 18 pounds)".

Dated: November 3, 1987.

Richard A. Carnevale,

Acting Associate Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 87-25896 Filed 11-6-87; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 556 and 558

Animal Drugs, Feeds, and Related Products; Decoquinate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Center for Veterinary Medicine (CVM) of the Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Rhone-Poulenc, Inc., providing for the use of decoquinate in the feed of young goats for the prevention of coccidiosis. The regulations are also amended to establish a tolerance for drug residues in edible goat tissues.

EFFECTIVE DATE: November 9, 1987.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Rhone-Poulenc, Inc., P.O. Box 125, Black Horse Lane, Monmouth Junction, NJ 08852, filed supplemental NADA 39–417 providing for the use of Type A articles containing decoquinate for making Type C feed indicated for the prevention of coccidiosis caused by *Eimeria christenseni* and *Eimeria ninakohlyakimovae* in young goats. The drug is currently approved for use in the prevention of coccidiosis in broiler chickens and cattle. The supplemental NADA incorporates an environmental assessment concerning possible impacts at the site of use of the animal feed. The assessment is contained in Public Master File 5012, for which a notice of availability published in the **Federal Register** of February 18, 1987 (52 FR 4968).

The supplemental NADA is approved and 21 CFR 556.170 and 558.195(d) are amended to reflect the approval and to establish a tolerance for residues of decoquinate in edible goat tissues. The basis of the approval is discussed in the freedom of information summary. Portions of the table in 21 CFR 558.195(d) are also amended for the purpose of making certain editorial revisions.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this supplemental application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in two environmental assessments, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

List of Subjects

21 CFR Part 556

Animal drugs, Foods.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Veterinary Medicine, Parts 556 and 558 are amended as follows:

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

1. The authority citation for 21 CFR Part 556 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. Section 556.170 is amended by revising it to read as follows:

§ 556.170 Decoquinate.

Tolerances for residues of decoquinate in food are established as follows in uncooked edible tissues of chickens, cattle, and goats at 2 parts per million in tissues other than skeletal muscle and 1 part per million in skeletal muscle.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 558.195 [Amended]

4. Section 558.195 *Decoquinate* is amended in paragraph (d) in the table, as follows:

a. Under the "Indications for use" column, by changing the phrase "as an aid in the prevention of" to read "for the prevention of" wherever it appears in that table column; under the "Limitations" column, at the entry for "22.7 mg per 100 lb of body weight per day (0.5 mg per kilogram)." change "Feed for at least 28 days during periods of coccidiosis or when it is likely to be a hazard." to "Feed for at least 28 days during periods of exposure to coccidiosis or when it is likely to be a hazard."; under the "Sponsor" column, at the entry for "22.7 mg per 100 lb of body weight per day (0.5 mg per kilogram).", add drug labeler code "011526."

b. By adding a new entry at the end of the table to read as follows:

§ 558.195 Decoquinate.

* * * * *

(d) * * *

Decoquinate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
13.6 (0.00149 pct).	.....	Young goats; for the prevention of coccidiosis caused by *Eimeria christenseni* and *E. ninakohlyakimovae*.	Feed at a rate to provide 22.7 mg per 100 lbs of body weight per day (0.5 mg per kilogram); do not feed to breeding animals or goats producing milk for food; feed for at least 28 days during periods of exposure to coccidiosis or when it is likely to be a hazard.	011526

Dated: October 30, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87-25897 Filed 11-6-87; 8:45 am]

BILLING CODE 4160-01-M

VETERANS ADMINISTRATION

38 CFR Part 3

Determination of Continued Eligibility

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: The Veterans Administration (VA) has amended its adjudication regulations to include broader authority to require beneficiaries to certify, when requested, the continued existence of any or all eligibility factors which established entitlement to benefits being paid. This authority is needed to limit and/or prevent overpayments in cases where entitlement no longer exists. These regulatory amendments provide additional authority for the VA to protect against waste, fraud and abuse in benefit programs without adversely affecting beneficiaries who are entitled to the payments they receive.

EFFECTIVE DATE: These regulatory amendments are effective December 9, 1987.

FOR FURTHER INFORMATION CONTACT: Robert M. White, Chief, Regulations Staff, Compensation and Pension Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-3005.

SUPPLEMENTARY INFORMATION: On page 2559 of the **Federal Register** of January 23, 1987, the VA published proposed regulations on determination of continued eligibility. Interested persons were invited to submit comments, suggestions, or objections by February 23, 1987. Two comments were received.

One commentor suggested that the authority granted by the amendment is broader than that which is required to serve the purpose, and that the change condones the tendency to make requests for certification on a more frequent basis than necessary. It is contemplated that the authority provided by this amendment will permit periodic requests for information necessary to determine continued eligibility when a need to do so is identified. We believe that information gained through the experience of accumulated data will determine how often certifications of continued eligibility should be requested.

The commentor also suggested that we should specify the types of certification that will be acceptable so as to avoid the potential for expense to claimants. The types suggested included a questionnaire form provided by the VA to the recipient on the anniversary date of the award of the applicable benefit, a statement provided by the recipient to the VA using a Statement in Support of Claim, VA Form 21-4138, or letter statement by the recipient, attested to by one witness. While we agree in general with the suggested forms of certification, we believe that specification of the types of such certification is a procedural rather than a regulatory matter.

Another commentor pointed out that in § 3.158, there are provisions for restoring entitlement from the date of filing a new claim when evidence requested for the purpose of determining continued entitlement is not provided within one year from the date of request therefor, and that our proposed amendment appears to conflict with that section. The intent of our proposed amendment is to provide for the resumption of benefits on the basis of the facts found only in instances of periodic requests for certification of continued eligibility and not in the case of specific requests for evidence in individual claims. To resolve this apparent conflict, we have made a minor revision in § 3.158 which allows for the periodic request for certification of continued eligibility under § 3.652 to be exempt from abandoned claim rules. We have also revised the heading of § 3.652 to indicate that that section applies to the "periodic" certification of continued eligibility.

Based upon further review of our proposed rule, we have also determined that additional notice should be afforded claimants whose benefits may be subject to reduction or termination because of failure to furnish the requested certification. We have revised our amendment to provide notice of a proposed reduction or termination of benefits when the required certification is not received within 60 days from the date of request therefor. If the certification is not received within the 60-day period of notice, the proposed reduction or termination of benefits will be put into effect. We have also added two cross references to indicate that Employment Questionnaire(s), VA Form 21-4140, and eligibility verification reports (EVRs) are subject to the provisions of §§ 3.501(f) and 3.661 respectively.

The proposed amendment as modified herein is adopted. We appreciate the suggestions and support received in connection with this rule change.

The Administrator hereby certifies that these final regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. Therefore, pursuant to 5 U.S.C. 605(b), these final regulatory amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604. The reason for this certification is that these final regulatory amendments impose no regulatory burdens on small entities, and only claimants for VA benefits will be directly affected.

In accordance with Executive Order 12291, Federal Regulation, the VA has determined that these final regulatory amendments are non-major for the following reasons:

(1) They will not have an annual effect on the economy of $100 million or more.

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance Program numbers for these final regulatory amendments are 64.104, 64.105, 64.109 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health

care, Pensions, Veterans, Veterans Administration.

Approved: October 1, 1987.

Thomas K. Turnage,

Administrator.

38 CFR Part 3, Adjudication, is amended as follows:

PART 3—[AMENDED]

1. In § 3.158, the first sentence of paragraph (a) and the cross-reference at the end of the section have been revised and an authority citation is added at the end of paragraph (a) to read as follows:

§ 3.158 Abandoned claims.

(a) *General.* Except as provided in § 3.652 of this part, where evidence requested in connection with an original claim, a claim for increase or to reopen or for the purpose of determining continued entitlement is not furnished within 1 year after the date of request, the claim will be considered abandoned.

* * * * *

(Authority: 38 U.S.C. 210(c))

* * * * *

Cross-References: Periodic certification of continued eligibility. See § 3.652. Failure to report for VA examination. See § 3.655. Disappearance of veteran. See § 3.656.

2. In § 3.500, paragraph (v) is revised to read as follows:

§ 3.500 General.

* * * * *

(v) *Failure to furnish evidence of continued eligibility.* See § 3.652 (a) and (b).

3. Section 3.652 is revised to read as follows:

§ 3.652 Periodic certification of continued eligibility.

Except as otherwise provided:

(a) Individuals to whom benefits are being paid are required to certify, when requested, that any or all of the eligibility factors which established entitlement to the benefit being paid continue to exist. The beneficiary will be advised at the time of the request that the certification must be furnished within 60 days from the date of the request therefor and that failure to do so will result in the reduction or termination of benefits.

(1) If the certification is not received within 60 days from the date of the request, the eligibility factor(s) for which certification was requested will be considered to have ceased to exist as of the end of the month in which it was last shown by the evidence of record to have existed. For purposes of this paragraph, the effective date of reduction or termination of benefits will be in accordance with §§ 3.500 through 3.504 as in effect on the date the eligibility factor(s) is considered to have ceased to exist. The claimant will be advised of the proposed reduction or termination of benefits and the date the proposed action will be effective. An additional 60 days from the date of notice of the proposed action will be provided for the claimant to respond.

(2) If the certification is not received within the additional 60 day period, the proposed reduction or termination of benefits will be put into effect.

(b) When the required certification is received, benefits will be adjusted, if necessary, in accordance with the facts found.

(Authority: 38 U.S.C. 210(c))

Cross-References: Employment Questionnaire, failure to return. See § 3.501(f). Income and Net Worth Questionnaires. See § 3.661.

[FR Doc. 87-25807 Filed 11-6-87; 8:45 am]

BILLING CODE 8320-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-7

[FPMR Temp. Reg. A-30, Supp. 1]

Request for Waivers

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement extends to January 31, 1988, the expiration date of FPMR Temporary Regulation A-30.

DATES: *Effective date:* October 1, 1987.

Expiration date: January 31, 1988.

FOR FURTHER INFORMATION CONTACT: Mrs. Phyllis M. Hickman, Travel and Transportation Management Division on (703) 557-1261.

SUPPLEMENTARY INFORMATION: GSA has determined that this is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-7

Government property management.

(Sec. 205(c) 63 Stat. 390; (40 U.S.C. 486(c))

In 41 CFR Ch. 101, the following temporary regulation is added to the appendix at the end of Subchapter A to read as follows:

October 19, 1987

Federal Property Management Regulations [Temporary Regulation A-30; Supplement 1]

To: Heads of Federal agencies

Subject: Use of contract airline/rail passenger service between selected cities/airports

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation A-30.

2. *Effective date.* This regulation is effective October 1, 1987.

3. *Expiration date.* This supplement expires January 31, 1988, unless sooner canceled or revised.

4. *Explanation of change.* The expiration date in par. 3 of FPMR Temporary Regulation A-30 is revised to January 31, 1988.

T.C. Golden,

Administrator of General Services.

[FR Doc. 87-25826 Filed 11-6-87; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 435 and 436

[BERC-304-F]

Medicaid Program; Coverage of Qualified Pregnant Women and Children and Newborn Children

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule amends the Medicaid regulations to add two mandatory eligibility groups of individuals for Medicaid coverage: (1) Qualified pregnant women and certain children under age 5; and (2) newborn children of Medicaid-eligible women The amendments conform the regulations to certain provisions of the Deficit Reduction Act of 1984 and the Consolidated Omnibus Budget Reconciliation Act of 1985. The amendments also make a technical change to conform the language of the regulations to a provision of another previously enacted law.

EFFECTIVE DATES: These regulations are effective on December 9, 1987. The statutory effective dates for the individual provisions of the legislation are specified in the regulation text or elsewhere in this preamble.

FOR FURTHER INFORMATION CONTACT: Richard Strauss, 301-594-6529.

SUPPLEMENTARY INFORMATION:

General Background

Title XIX of the Social Security Act (the Act) provides authority for States to establish Medicaid programs to provide medical assistance to needy individuals. Section 1902(a)(10) of the Act describes the groups of individuals to whom medical assistance may be provided under two broad classifications: The categorically needy (section 1902(a)(10)(A)) and the medically needy (section 1902(a)(10)(C)). The categorically needy classification is further divided into two subgroups: The mandatory categorically needy which, generally, States with Medicaid programs must cover (section 1902(a)(10)(A)(i)); and the optionally categorically needy which States, at their option, may cover (section 1902(a)(10)(A)(ii)). Coverage of the medically needy group is also at States' option.

The mandatory categorically needy group generally includes needy individuals who are receiving, or deemed to be receiving, cash payments under the cash assistance programs under the Act. These individuals include, for example, those receiving aid to families with dependent children (AFDC) under an approved State plan (title IV–A) and supplemental security income (SSI) or mandatory State supplements (title XVI). With the exception of several recently enacted groups, the optionally categorically needy group includes needy individuals who share financial (i.e., income and resource) and categorical (e.g., age, blindness, or disability) requirements and characteristics with the cash assistance recipients but are not eligible as mandatory categorically needy for various reasons. For example, individuals who are not actually receiving cash assistance are not required to be covered as mandatory categorically needy even if they would be eligible for cash assistance if they applied. However, States may choose to cover these individuals as optional categorically needy.

The medically needy group includes individuals who meet the relevant nonfinancial eligibility requirements of the cash assistance programs but who have income and resources that exceed allowable income and resource eligibility levels. In States that provide Medicaid to the medically needy, individuals with excess income may become Medicaid eligible if they incur medical expenses equal to the amount by which their income exceeds the medically needy income level. This process is ca led "spending down."

States with medically needy programs must cover pregnant women and children under 18 if these individuals are eligible as mandatory or optionally categorically needy, except that they have excess income and resources.

Before enactment of the Deficit Reduction Act (DRA), Pub. L. 98–369, on July 18, 1984, needy individuals covered as mandatory categorically needy under the provisions of section 1902(a)(10)(A)(i)(I) of the Act included (1) pregnant women who, at State option, receive AFDC in the last 4 months of pregnancy under the provisions of section 406(b) of the Social Security Act; and (2) pregnant women who, at State option, are deemed AFDC recipients if they would be eligible for AFDC cash payments if the child had been born and was living with the mother in the month of payment and the pregnancy had been medically verified under the provisions of section 406(g)(2) of the Act. At State option, pregnant women who met only the income and resource requirements of the State's approved AFDC plan could be covered by the State as optional categorically needy. In States with medically needy programs, needy individuals covered as medically needy included pregnant women and children under 18 if they would be eligible as mandatory or optionally categorically needy except that they have excess income and resources under section 1902(a)(10)(C)(ii) of the Act. In addition, needy individuals included, at State option, children under the ages of 21, 20, 19, or 18, or reasonable classifications of these children, who met AFDC income and resources requirements but who did not meet other categorical requirements for AFDC eligibility, such as parental deprivation (section 1902(a)(10)(A)(ii) of the Act). (These children are referred to as "Ribicoff children.") States could not use an age limit lower than 18 years in setting up reasonable classifications.

The Deficit Reduction Act amended several provisions of the Social Security Act relating to the eligibility groups under which pregnant women and children under 5 and newborn children could be covered. Sections 2361 and 2362 of DRA established a separate mandatory eligibility group of qualified pregnant women to encompass among others the previous two groups of individuals covered as categorically needy; a mandatory eligibility group of children under 5 whose coverage was to be phased in over a 5-year period; and a mandatory eligibility group of newborn children of Medicaid-eligible women. After the enactment of DRA, the eligibility groups of qualified pregnant women and children under 5 were further amended by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Pub. L. 99–272, enacted on April 7, 1986. Section 9501 of COBRA expanded the mandatory eligibility group of qualified pregnant women by adding women who previously could be covered as optional categorically needy because they met only the income and resource requirements of the State's approved AFDC plan. COBRA also allows States to cover children under age 5 without having to wait for the 5 years provided in the phase-in period (section 9511). The next two sections of this document discuss in detail the DRA and COBRA provisions.

(Note: COBRA contained other provisions relating to Medicaid eligibility groups and coverage of services. These provisions are not included in this document. We plan to issue a separate notice of proposed rulemaking to incorporate these provisions in the regulations along with the eligibility and coverage provisions of the Omnibus Budget Reconciliation Act of 1986, Pub. L. 99–509, enacted on October 21, 1986. Many of the provisions are self-implementing and, therefore, are in effect even though regulations have not been issued.)

On November 21, 1985, we published in the **Federal Register** (50 FR 48102) a proposed rule to incorporate the Medicaid eligibility requirements for the groups of qualified pregnant women and children under 5 and the group of newborn children that were included in the provisions of sections 2361 and 2362 of DRA. (COBRA, which modified the requirements for these groups added by DRA, was not enacted until after issuance of the proposed rule.) A summary of the public comments we received on the November 21 notice of proposed rulemaking and our responses, including a discussion of any changes made in the regulations as a result of those comments, is presented later in this document.

Revised Eligibility Groups of Pregnant Women

Section 2361 of DRA amended section 1902(a)(10)(A)(i) of the Social Security Act to require States to provide Medicaid coverage to certain qualified pregnant women as a distinct mandatory categorically needy eligibility group. Section 2361 deleted the categorically needy eligibility group of pregnant women who were deemed AFDC recipients under section 406(g)(2) of the Act and replaced it with this mandatory group of qualified pregnant women. Section 2361 of DRA added a new section 1905(n)(1) to the Act that defines a qualified pregnant woman for

the mandatory eligibility group as one whose pregnancy has been medically verified and who (A) if the child had been born to her and was living with her in the month of payment, would be eligible for an AFDC cash payment, or would be eligible for an AFDC cash payment if coverage under the State's AFDC plan included an unemployed parents program, or (B) is a member of a family that would be eligible for AFDC if the State's AFDC plan included an unemployed parents program.

Section 9501(a) of COBRA expanded the definition of a qualified pregnant woman under section 1905(n)(1) of the Act that was established by DRA by adding a paragraph (C) which requires coverage of a pregnant woman who otherwise meets the income and resource requirements of the State's approved AFDC plan. This group of pregnant women, which now is a mandatory categorically needy group, previously could have been covered under the optional categorically needy group. Under this COBRA provision, a State is required to provide Medicaid to any pregnant woman who meets the AFDC income and resource requirements, regardless of family structure. A pregnant woman who meets these AFDC financial criteria is eligible for Medicaid regardless of whether the woman is a single parent, whether the woman is a first time pregnant woman, whether the State has an unemployed parents program, or whether the principal breadwinner in the family is unemployed.

Medicaid eligibility of qualified pregnant women under the provisions of section 1905(n)(1) (A) and (B) of the Act, as added by DRA, applies as of October 1, 1984. Eligibility of qualified pregnant women under section 1905(n)(1)(C), as added by COBRA, applies as of July 1, 1986. These statutory provisions are effective without regard to whether or not final regulations to carry out the statutory amendments have been published unless, as determined by the Secretary, State legislation other than legislation appropriating funds is needed for the State Medicaid plan to meet the requirements. In order for the Secretary to determine if State legislation is required, a State must submit to the appropriate Regional Administrator for HCFA a detailed written opinion from the State's attorney general explaining why State legislation is required or a clear opinion from a court of competent jurisdiction. If the Secretary determines that State legislation is needed, these statutory provisions apply the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after July 18, 1984 in the case of the DRA provision, and after April 7, 1986 in the case of the COBRA provision.

As a result of DRA and COBRA, section 1905(n)(1) of the Act now has a three-part definition of a qualified pregnant woman. The definition of a qualified pregnant woman under section 1905(n)(1)(A) of the Act specifically requires States to treat the woman as if the unborn child were born and actually living with her. Thus, for example, under this provision Medicaid eligibility may be provided to pregnant women who may have no other children in their care (such as first-time pregnant women) or pregnant women whose only children living with them receive SSI. The definition of a qualified pregnant woman under section 1905(n)(1)(B) of the Act does not specifically refer to treating the woman as if her unborn child were born and living with her. However, it overlaps with eligibility under provision (A) and includes the assertion that a pregnant woman is to be covered under Medicaid if she is a member of a family that could be covered if the State had an AFDC-unemployed parents (AFDC–UP) program. For example, a pregnant woman under the age of 18 who is living with both of her unemployed parents could be covered under provision (B). The definition of a qualified pregnant woman under section 1905(n)(1)(C) of the Act also does not specify treatment of the woman as if her unborn child were born and living with her. Rather, it provides mandatory Medicaid eligibility for pregnant women who need only meet the income and resource requirements of the State's approved AFDC plan (that is, they are not required to meet the nonfinancial eligibility requirements of the program such as dependency).

As stated earlier, the statutory language under provisions (B) and (C) of section 1905(n)(1) of the Act does not specify that the eligibility of the pregnant woman is to be determined under AFDC or AFDC–UP criteria under the assumption that the child is born and living with her. However, as referred to in the Congressional Committee Report that accompanied COBRA (H.R. Rept. No. 265, Part I, 99th Cong., 1st Sess. 57 (1985)), the State is to assume for Medicaid purposes that the child is actually born and living with the mother in determining eligibility of pregnant women under all three provisions of section 1905(n)(1) of the Act, as amended by both DRA and COBRA. Consequently, for purposes of determining Medicaid eligibility only, the unborn child's needs (or children's needs, where it is medically verified that there is more than one fetus) would be included in determining eligibility. Thus, the pregnant woman, the unborn child (or children), and other family members as would be included in determining the relevant number of members of the budget unit under AFDC must be included in determining the financial eligibility of the pregnant woman. For example, a pregnant woman and her working husband would be treated as an assistance unit of three. We note that AFDC only covers children under age 18, or in some instances under age 19. Because section 1905(n)(1)(C) uses the phrase "otherwise meets the requirements of" the AFDC program, we believe the family budget unit would not include the pregnant woman's siblings or siblings of the unborn child where the siblings are over age 17 (or over age 18 in certain instances) in determining Medicaid eligibility of the qualified pregnant woman. Thus, we consider that the term "otherwise" denotes that the pregnant woman be treated as though she were in a dependency situation for purposes of applying the AFDC financial criteria, even if that is not actually the case.

In determining whether a pregnant woman would be eligible under the provisions of section 1905(n)(1) (A) and (B) of the Act, State Medicaid agencies must apply all applicable financial and nonfinancial eligibility criteria of the State's approved AFDC plan. The financial eligibility criteria include methodologies and standards for the treatment of income and resources. The nonfinancial eligibility criteria include relevant categorical requirements, such as deprivation of parental support or care and unemployment factors. In determining whether a woman would be eligible under the provisions of section 1905(n)(1)(C) of the Act, State Medicaid agencies must apply only the financial eligibility criteria of the State's approved AFDC plan.

In relation to eligibility criteria under an unemployed parents program, all States, regardless of whether they have an unemployed parents program in their AFDC State plans, must use applicable AFDC–UP criteria in determining Medicaid eligibility for qualified pregnant women. A State that has an unemployed parents program in its AFDC plan must use the relevant standards and methodologies of that program in determining Medicaid eligibility for a pregnant woman in situations where unemployment is involved. However, a State without an unemployed parents program in its

AFDC plan (that may not be familiar with requirements of the AFDC–UP program) will need to develop appropriate unemployed parents program requirements in conjunction with its State AFDC agency and the HCFA regional office.

Qualified pregnant women, as defined under the provisions of section 1905(n)(1) of the Act, are required to be covered as mandatory categorically needy by States. In addition, as indicated earlier, States with medically needy programs must cover all pregnant women who, except for income and resources, would be eligible as categorically needy.

Therefore, pregnant women who are ineligible as categorically needy qualified pregnant women because of excess income or resources must be tested against the State's medically needy income and resource requirements to determine medically needy eligibility.

We have amended the Medicaid regulations by removing the eligibility group of pregnant women deemed to be receiving AFDC under §§ 435.115(c) and 436.114(c) and by adding qualified pregnant women as a specific eligibility group for mandatory categorically needy coverage under new §§ 435.116 and 436.120. We have defined qualified pregnant women in the regulations as they are defined under the three provisions in section 1905(n)(1) (A), (B), and (C) of the Act.

The existing regulations at §§ 435.301(b)(1)(i) and 436.301(b)(1)(i) already provide for medically needy coverage of pregnant women who, except for income and resources, would be eligible for Medicaid as categorically needy. No further change in the regulation language is needed to conform the existing regulations to the DRA and COBRA provisions for coverage of pregnant women as medically needy.

Children Under Age 5

As stated earlier, before enactment of DRA and COBRA, States could cover as an optional categorically needy group children under the age of 21 (or, at State option, under age 20, 19, or 18), or reasonable classifications of these children, who meet AFDC income and resource requirements but who did not meet other categorical program requirements for AFDC eligibility such as parental deprivation (section 1902(a)(10)(A)(ii) of the Act). ("Ribicoff children".) In setting up reasonable classifications of these children, States could not use an age limit lower than 18 years.

Section 2361 of DRA added a new mandatory Medicaid eligibility group of qualified children under 5. Under section 2361 of DRA, qualified children under 5 were defined under a new section 1905(n)(2) of the Act as those who are under 5 years of age, who are born after September 30, 1983, and who meet the income and resource requirements of the State's approved AFDC plan. Because States with medically needy programs are required to cover all children under 18 who, except for income and resources, would be eligible as mandatory categorically needy, this group of children under 5 who, except for income and resources, would be eligible as mandatory categorically needy also must be covered as medically needy. Because the DRA provision required States to cover only children born after September 30, 1983, States had to phase in coverage under this new group. States could not cover all children under age 5 under this provision—that is, under DRA they were precluded from covering any children born before October 1, 1983 under this group.

Section 9511 of COBRA further revised section 1905(n)(2) of the Act to redefine qualified children as children under 5 years of age born after September 30, 1983, or born *at an earlier date designated by the State.* Thus, rather than phasing in qualified children over a 5-year period as was the case under the DRA provision, effective April 1, 1986, States may cover all children under age 5 as categorically needy and, if the State has a medically needy program, as medically needy.

The provision on coverage of qualified children under 5 under DRA applies as of October 1, 1984, and under COBRA, as of April 1, 1986, without regard to whether or not final regulations to carry out the statutory amendments have been published by that date (unless State legislation, other than legislation appropriating funds, is needed). (The requirement for submittal of appropriate materials to verify that State legislation is needed is discussed earlier in this document under the section on Revised Eligibility Groups of Pregnant Women.)

The DRA provision was included in the November 21, 1985 NPRM; the COBRA provision was enacted later and consequently was not. However, because of the relevance of the COBRA amendment to the basic DRA provision to allow States the option of coverage of children under 5 earlier rather than phasing them in, we believe it is appropriate to include it in this document so that the regulations reflect the full option available to States. Our justification for waiving notice of rulemaking procedures is explained later in this document.

From the period of October 1, 1984 through March 30, 1986, under section 2361 of DRA States were required to phase in coverage of qualified children under age 5: In fiscal year 1985 (October 1, 1984 September 30, 1985) only children under age 2 could be covered under this provision. From October 1, 1985 through March 31, 1986, only children under age 3 could be covered. Under section 9511 of COBRA, effective April 1, 1986, States may cover all qualified children under age 5, phase in coverage at a more accelerated rate than was required under DRA, or continue to phase in coverage of these children as allowed under the DRA provision. If a State elects to continue to phase in coverage, it must include all qualified children under 5 under its plan by September 30, 1988. If a State chooses to accelerate the phase in of qualified children under 5 or elects to provide coverage to all of these children born earlier than September 30, 1983, it must also expand medically needy coverage because of the requirement for coverage as medically needy of all children under 18 who, except for income and resources, would be eligible as mandatory categorically needy.

The group of children under 5 under section 1905(n)(2) are not required to meet other categorical nonfinancial eligibility requirements of the AFDC plan such as parental deprivation.

As stated earlier, under section 1902(a)(10)(A)(ii) of the Act, States may cover, as optional categorically needy, children under age 21 (or, at State option, under 20, 19, or 18) or reasonable classifications of children who meet the income and resource requirements of the approved AFDC State plan (Ribicoff children). The mandatory coverage of qualified children under 5 does not alter this optional coverage group. States still may not impose eligibility limitations on their optional categorically needy coverage group of children under age 21 (or 20, 19, or 18) that are based on age. The Conference Committee report for DRA (H.R. Rept. No. 861, 98th Cong., 2d sess., 1359–1360 (1984)) reiterated that States may not impose eligibility limitations on the optional group of Ribicoff children based on age—that is, for children under the age of 18, age may not be used as a reasonable classification. States may continue to establish reasonable categories permitted under current regulations, such as children in foster care homes, children in subsidized adoptions, or children in intermediate care facilities for purposes of optional coverage.

We have amended the Medicaid regulations by specifying the new eligibility group of qualified children under age 5 for mandatory categorically needy coverage under new §§ 435.116(c) and 436.120(c), using the definition specified in the statute. We also have revised §§ 435.301(b)(1)(ii) and 436.301(b)(1)(ii) to require States that have medically needy programs to provide medically needy eligibility for individuals under age 18 who, except for income and resources, would be eligible for Medicaid as mandatory categorically needy. This provides, among other things, for coverage of the medically needy counterparts of the qualified children under age 5 since the qualified children are a mandatory categorically needy group.

Newborn Children

Before passage of DRA, some State Medicaid programs may not have established application procedures that provided for automatic Medicaid coverage of a newborn child born to a Medicaid-eligible woman. As a result, there may have been some delays in providing immediate Medicaid coverage to newborn children.

Section 2362 of DRA established a specific requirement for Medicaid eligibility for certain newborn children. Section 2362 amended section 1902(e) of the Social Security Act to provide that a child born on or after October 1, 1984, to a woman eligible for and receiving Medicaid on the date of the child's birth is deemed to have filed an application and been found eligible for Medicaid on the date of birth and remains eligible for one year so long as the woman remains eligible and the child is a member of the woman's household. The requirement for coverage of newborn children applies to children born on or after October 1, 1984.

The newborn child's eligibility under section 2362 of DRA is connected to the mother's eligibility. Therefore, if the mother is eligible as categorically needy, the newborn child is categorically needy. If the mother is eligible as medically needy, the newborn child is medically needy.

Section 2362 specifies that the newborn child remains eligible for up to one year as long as the mother remains eligible. We interpret this to mean that there must be continuous eligibility during the 1-year period—that is, if the mother loses eligibility or there is a break in her eligibility, the newborn would no longer be deemed eligible for Medicaid under the provisions of section 2362. Failure of the mother to meet or continue to meet or comply with any of the eligibility requirements would result in loss of her eligibility which, in turn, would result in loss of the newborn child's eligibility.

In addition, section 2362 ties the newborn child's eligibility to the child being a "member of the woman's household." In determining what constitutes a child being a member of the woman's household, States must apply the requirements of the cash assistance program related to the mother's eligibility (that is, for AFDC-related mothers, the AFDC rules for determining whether the child is living with a specified relative—in this case, the mother—are found in regulations at 45 CFR 233.90(c)(1)(v); and for SSI-related mothers, the SSI definition of household is found in regulations at 20 CFR 416.1132(a). Related rules are also found at 20 CFR 416.1149(a) and 416.1167(a).

We have conformed the Medicaid regulations to the statute by adding a provision for coverage of newborn children as a categorically needy eligibility group under new §§ 435.117 and 436.124. We also have added under §§ 435.301(b)(1)(iii) and 436.301(b)(1)(iii) provisions to require States that cover the medically needy to provide eligibility to the counterparts of these newborn children. We made these changes because section 1902(e)(4) of the Act mandates Medicaid eligibility of the newborn child if the mother was eligible and received Medicaid on the date of the child's birth. That eligibility continues for a period of one year as long as the child is a member of the woman's household and the woman remains eligible for assistance. Because the statute does not specify the type of eligibility to be afforded the child, but focuses on the mother's eligibility, these regulations make the child medically needy if the mother is medically needy.

Technical Changes

In publishing regulations to implement the provisions of the Omnibus Reconciliation Act of 1981 (OBRA), Pub. L. 97-35, on September 30, 1981 (46 FR 47984), we inadvertently omitted language in the regulations to provide for coverage, as a mandatory categorically needy group, of individuals whose AFDC payments have been reduced to zero because of the recoupment of an overpayment. Section 2318 of OBRA provided under section 402(a)(22)(A) of the Act that these individuals are deemed recipients of AFDC. (This omission was pointed out in public comments that we received on the regulations issued as a result of OBRA.) Therefore, we are making a technical change to the regulations to conform them to the statute by adding new §§ 435.115(d) and 436.114(d) to provide for categorically needy coverage of this group as deemed AFDC recipients.

We also are making some technical changes in the "Basis" section of the regulations to incorporate references to laws relating to State plan requirements and eligibility requirements that already are incorporated in the regulations. These references are included in a new section 1920 of the Act added by COBRA. (Note: Section 1920 of the Act was redesignated as section 1921 of the Act by the section 9407 of the Omnibus Budget Reconciliation Act of 1986.)

Summary of Public Comments and Departmental Responses

We received correspondence from 14 sources on the proposed rule published in the **Federal Register** on November 21, 1985. A summary of those public comments and our responses follow:

Qualified Pregnant Women

Comment: A number of commenters objected to the provision requiring inclusion of the needs of the unborn child when determining eligibility for the pregnant woman. They believed that budgeting for the Medicaid qualified pregnant woman should parallel the provisions of the AFDC program which, as characterized by the commenters, does not budget for the needs of the unborn child in determining AFDC eligibility.

Response: Although the AFDC statute, section 406(g)(1) of the Act, specifically precludes the counting of the needs of an unborn child in determining the amount of the AFDC payment for a pregnant woman, the Medicaid statute does not contain a similar provision. The Medicaid statute, section 1905(n)(1)(A) of the Act as amended by section 2361 of DRA, defines a qualified pregnant woman for purposes of Medicaid as someone who would be eligible for AFDC "if her child had been born and was living with her in the month such aid would be paid * * *." Thus, the Medicaid statute, independent of the AFDC statute, requires that the eligibility determination for a qualified pregnant woman include the needs of the unborn child. Therefore, we have retained the provision in the final regulations to count the needs of the unborn child in determining Medicaid eligibility.

Comment: A number of commenters objected to including the needs of an unborn child in determining Medicaid eligibility of a pregnant woman in situations where the pregnant woman plans to place the child in adoption after

the birth. They also objected to counting the needs of more than one child in situations where the pregnant women is expecting multiple births.

Response: Section 1905(n)(1)(A) of the Act clearly requires taking into account the needs of an unborn child before the actual birth as if the child were born and living with the mother. These requirements apply regardless of whether or not the child will actually live with the mother after the birth. Even if the pregnant woman plans to place the child in adoption at birth, the needs of the unborn child must still be taken into account in determining the pregnant woman's Medicaid eligibility. In the case of expected multiple births, the eligibility determination must be based on the composition of the family unit as it would be if the children were born and living with the mother. Therefore, the needs of each unborn child that is medically verified must be taken into account in determining eligibility.

Comment: Section 1905(n)(1)(A) defines a qualified pregnant woman as one who would be eligible for AFDC if her child were born and living with her (or would be eligible if the State had an unemployed parents program). Section 1905(n)(1)(B) defines a qualified pregnant woman as one who is a member of a family that would be eligible for AFDC if the State had an unemployed parents program. In the NPRM, we indicated that these two provisions were redundant and invited comments on this point. A number of commenters believed there is a distinction between the two requirements relating to a qualified pregnant woman. The commenters agree that the two provisions might be redundant. However, they recommended that the two statutory provisions be retained in the regulations for reasons of caution and until the provision has been in practice and further experience gathered in determining whether certain categories of pregnant women are eligible under one provision but not the other.

Response: We agree with the conmenters. Although the distinction between the two requirements is not clear, inasmuch as the statute requires both provisions to be applied, we have retained them in the final regulations. (We also have added to the regulations the third group of qualified pregnant women under section 1905(n)(1)(C) of the Act, as added by section 9501(a) of COBRA—pregnant women who meet only the income and resource requirements of the State's approved AFDC plan.) If experience indicates that changes are necessary, we will reconsider whether a revision of the regulation is appropriate.

Comment: One commenter suggested that although medical verification of pregnancy is required, it is not necessary in all cases to verify the date of conception and the expected due date. Rather, the commenters stated that it would be less confusing to require verification of pregnancy only for the months that Medicaid coverage is requested, including the 3-month retroactive eligibility period.

Response: We agree that it is not always necessary to verify the date of conception, for example, where the date of conception is more than 3 months before the month of application. We also agree with the premise of the commenter that it is only necessary that pregnancy be verified for the months that the woman is applying for Medicaid benefits on the basis of pregnancy. However, we do not believe that the regulation needs to specify these details. We believe it is sufficient to indicate in the regulation, as we have done, that pregnancy as a basis of eligibility must be medically verified. However, we will take into account the commenter's concerns in issuing any clarifying policy instructions on this point.

Comment: One commenter suggested that the definition of "qualified pregnant woman" precludes Medicaid eligibility for those pregnant women who are precluded from eligibility under the AFDC program. The commenter suggested that the regulations be revised to allow flexibility for inclusion of pregnant women whose eligibility is precluded under the AFDC program.

Response: The definition of qualified pregnant women as added by DRA limited mandatory Medicaid coverage of pregnant women to those who meet AFDC financial and nonfinancial conditions of eligibility. However, States had the option to cover as optional categorically needy pregnant women who met the financial eligibility requirements but not the nonfinancial conditions of eligibility requirements of the State's approved AFDC plan.

After issuance of the proposed rule, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) was enacted which contained a provision that expanded the definition of qualified pregnant women under section 1905(n)(1). The expanded definition now mandates coverage of pregnant women who need only meet the income and resource requirements of the State's approved AFDC plan (and not nonfinancial requirements of the AFDC or AFDC-UP program such as dependency). Accordingly, the optional group cited is now a mandatory group.

Coverage of Children Under 5

Comment: Two commenters disagreed with the provision in the proposed rule that provided for a phase-in of coverage of the mandated eligibility group of all children under age 5. They suggested that the language of the Conference Report accompanying section 2361 of DRA would permit States to cover all individuals under the age of 5 as a reasonable classification under the optional coverage group of children under age 21 (or, at State option, under age 20, 19, or 18) or reasonable classifications of such individuals (Ribicoff children).

Response: The law was recently amended to eliminate the requirement for phased-in coverage. Section 9511 of the COBRA amended section 1905(n)(2) of the Act to permit States the option of providing Medicaid currently to all qualified children under age 5 rather than phasing in coverage as was required under DRA. This amendment is effective April 7, 1986. However, States may elect to continue to phase-in coverage as required before COBRA. The statutory language in section 1905(n)(2) of the Act clearly defines a qualified child as "a child who is under 5 years of age, who was born after September 30, 1983 * * *." Thus, a child who is under age 5 who was born on or before September 30, 1983 is precluded from coverage as a qualified child unless the State elects to act under the authority added by COBRA. If the State does not elect coverage at an earlier specified date, the provisions of section 2361 of DRA that children under 5 must be phased in apply—that is, it will only be as of October 1, 1988 that all children who are under the age of 5 will be covered as qualified children.

We disagree with the commenters suggestion that States may cover all children under 5 now as a reasonable classification based on age of the optional group of individuals under age 21 (or, at State option, 20, 19, or 18). The Conference Report for DRA indicates that "this amendment (section 2361) does not alter the current requirement that States may not impose coverage limitations based on age (except they must cover the children under 5 as specified)." Thus, the conferees confirmed HCFA's policy before enactment of DRA that age could not be used as a basis for a reasonable classification for Ribicoff children.

The only exception to coverage of the optional Ribicoff children is the statutorily mandated coverage of

qualified children under 5 as provided under section 1905(n)(2) of the Act. The Congress did not amend in any way the statute related to other Ribicoff children at sections 1902(a)(10)(A)(ii) and 1905(a)(i) of the Act

Comment: One commenter suggested that the difference in the eligibility requirements for qualified pregnant women and children be clarified in the final regulations. The commenter noted that with respect to a qualified pregnant woman, the regulation refers to "would be eligible or deemed eligible for an AFDC cash payment on the basis of the income and resource requirements of the approved AFDC plan," while with respect to a qualified child the regulation refers to "meet the income and resource requirements of the State's approved AFDC plan." The commenter asks for clarification as to whether these two phrases have the same meaning.

Response: We believe that the phrase "meet the income and resource requirements of the State's approved AFDC plan" relating to the qualified child should be read to mean that the qualified child would be eligible for an AFDC cash payment based on the income and resource requirements of the AFDC program, as is the case for the qualified pregnant woman. We have revised the regulations relating to the qualified pregnant woman (§§ 435.116 and 436.120) to remove the words "or deemed eligible" and to refer to income and resource requirements that would be met if dependency requirements were met.

Comment: One commenter suggested that the regulation for coverage of children under the age of 5 be clarified with respect to whether it applies only to children living in a two-parent household.

Response: Although the Conference Committee Report accompanying section 2361 of DRA refers to two-parent families because those children under age 5 in one-parent families will usually be eligible for Medicaid by virtue of eligibility for and receipt of AFDC, we believe the reference is merely providing an illustration and the provision is not meant to be restricted to two parent families. The language of the statute does not specifically limit the coverage of children under 5 to only those in two-parent families: Therefore, we are not revising the regulation.

Comment: One commenter suggested that § 435.301(b)(1)(ii) be revised to make clear that a parallel group of children under age 5 as covered under section 2361 must also be covered as medically needy. The commenter suggested that since States with medically needy programs must cover as medically needy all individuals under the age of 18 who, except for their income and resources, would be covered as mandatory categorically needy individuals, the group of children under 5 also are mandatory categorically needy and are under age 18, and therefore, should be covered as medically needy.

Response: We agree with the commenter. Section 137(b)(9) of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) amended section 1902(a)(10)(C)(ii)(I) of the Act to require States with medically needy programs to cover as medically needy all individuals under the age of 18 (instead of age 21) who, except for their income and resources, would be covered as mandatory categorically needy individuals. This includes the group of individuals under age 5 covered under section 2361 of DRA. Although we notified the general public of the TEFRA provision in a general notice in the **Federal Register** (47 FR 57775, December 28, 1982), the existing §§ 435.301(b)(1)(ii) and 436.301(b)(1)(ii) do not reflect the current age requirement under section 1902(a)(10)(C)(ii)(I) of the Act. Therefore, we are revising §§ 435.301(b)(1)(ii) and 436.301(b)(1)(ii) to reflect the current statutory requirement for medically needy coverage of those children under 18 who, except for income and resources, would be mandatory categorically needy.

Comment: One commenter suggested that the regulations relating to coverage of qualified children under age 5 (§§ 435.116(c) and 436.120(c)) include a cross-reference to other general Medicaid requirements, for example, citizenship, alienage, residency, etc.

Response: We disagree with the commenter. Existing Medicaid regulations at 42 CFR Part 435, Subpart E and Part 436, Subpart E, contain general eligibility requirements applicable to all Medicaid applicants and recipients, except to the extent inconsistent with specific regulations. We see no reason to single out the regulations covering the group of qualified children under age 5 from among the regulations on the other Medicaid eligibility groups to add a cross-reference to these general requirements. Furthermore, §§ 435.400 and 436.400 clearly indicate that the general requirements apply to all categorically needy and medically needy individuals.

Newborn Children

Comment: One commenter objected to the requirement that newborn children be made eligible under section 2362 of DRA even where the newborn child would be otherwise ineligible. The commenter expressed the belief that Congress did not intend to provide automatic eligibility to those newborn children who are ineligible despite the fact of their mother's continuing eligibility. Rather, the commenter believes that section 2362 was enacted in order to address administrative problems related to lengthy and formal application procedures for newborn children that result in delayed coverage of the child.

Response: The Medicaid statute, section 1902(e)(4) of the Act as amended by section 2362 of DRA, is very clear in mandating continued eligibility for the newborn for one year so long as the mother was eligible for and receiving Medicaid on the date of the child's birth, continues to be eligible, and lives in the same household with the child. The statute does not provide for any exceptions to these requirements as suggested by the commenter.

Comment: One commenter suggested that if it was HCFA's intent in implementing the newborn child provision to continue eligibility for one year as long as the child remains in the household with a *specified relative* other than the mother, the regulation should be clarified to make this point.

Response: The intent of the regulation is for eligibility of the newborn child to continue for one year only if the child is in the same household as the mother as specified in the Act. Thus, if the newborn child lives in the same household with a specified relative other than the mother, the provisions of section 2362 do not apply.

We believe there is some confusion on the part of the commenter. In the preamble to the proposed regulations (page 48104), we indicated that "in determining what constitutes a child being a member of the woman's household, States should apply the methodologies of the cash assistance program related to the mother's eligibility (that is, for AFDC related mothers, the AFDC rules on living with a *specified relative* under regulations at 45 CFR 233.90(c)(1)(v) * * *" (Emphasis added). This reference to specified relative was only intended to refer to the rules for determining what household a child lives in and was not meant to imply that eligibility under section 2362 of DRA extends to situations where the child lives in the household of relatives other than the mother. The regulation text is clear that the provision applies only with respect to a child who lives in the mother's household. Therefore, we are not making changes to the regulation text.

Comment: One commenter recommended that we not require newborn children covered under section 2362 of DRA to be covered as medically needy.

Response: We believe there is some confusion of the commenter with respect to coverage of the newborn child as categorically or medically needy. Under section 2362 of DRA, the newborn child's eligibility is connected, that is, contingent upon, the mother's eligibility. In that context, we believe that the newborn's eligibility category is the same as that of the mother. Thus, if the mother is medically needy, the newborn child will be considered medically needy; and if the mother is categorically needy, the newborn child will be considered categorically needy. In States without a medically needy program, it would not be possible for the newborn child to be covered as medically needy under section 2362 of DRA.

Comment: One commenter suggested that the regulation be clarified as to the categorical relatedness of the newborn child covered under section 2362 of DRA—for example, if the child's mother is AFDC- or SSI-related, should the newborn be AFDC- or SSI-related, respectively?

Response: Section 2362 of DRA created a new category of eligible individuals that does not have the same categorical relationship to the Medicaid program as do other eligibility groups. Newborn children covered under section 2362 of DRA are not eligible based on any categorical relationship to the Medicaid program, but rather are eligible based strictly on the mother's Medicaid eligibility status. Thus, whether or not the newborn child is blind, disabled, or AFDC-related is irrelevant. What is determinative is whether or not the mother is and continues to be Medicaid eligible. We do not believe the regulation needs to be specific as to the newborn child's categorical relationship.

Waiver of Rulemaking Procedure

Consistent with the Administrative Procedure Act, we usually issue a notice of proposed rulemaking and provide the public with an opportunity to comment on proposed changes to our regulations unless we find good cause to waive this public notice and comment procedure.

The two provisions of COBRA relating to expanded eligibility of qualified pregnant women and elimination of the requirement for phase-in coverage of children under 5 that are included in these final regulations (§§ 435.116 (a)(3) and (c)(1) and 436.120 (a)(3) and (c)(1)) were not previously issued as a notice of proposed rulemaking. We do not believe that any useful purpose would be served by delaying their issuance to obtain public comment and that such a delay would not be in the best interest of the public. The provisions are self-implementing and are effective regardless of whether or not regulations are issued. The description in the statute of the third grouping of qualified pregnant women (those who meet the income and resource requirements of the AFDC program) is clear and does not require interpretation for implementation. The elimination of the phase-in of coverage of children under 5 is optional with the State. The regulatory text changes to conform the regulations to these COBRA provisions basically restate the language of the statute. The regulation change for the OBRA provision on the additional deemed eligibility group (§§ 435.115(d) and 436.114(d)) also merely conform the regulation language to statutory language and is a requirement that has been in effect since OBRA was enacted. Amending the regulations to include the DRA changes governing eligibility of pregnant women and children, without at the same time reflecting the self-implementing changes made by COBRA, could lead to confusion on the part of States and the public over the current requirements. Moreover, the delay in this regulation which would be necessitated by waiting to issue a notice of proposed rulemaking on the related COBRA changes could contribute to the present uncertainty of States obligations in implementing the DRA changes. Accordingly, we have concluded that issuance of the related COBRA changes as a proposed rule at this time would be unnecessary and contrary to the public interest. Therefore, we find good cause to waive the notice of proposed rulemaking procedure.

Regulatory Impact Statement

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any regulation that is likely to meet criteria for a "major rule." A major rule is one that would result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, we prepare and publish a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) for any regulation that will have a significant impact on a substantial number of small entities. A small entity is a small business, a nonprofit enterprise, or a government jurisdiction (such as a county or township) with a population of less than 50,000.

As we stated in the proposed rule, the regulatory amendments related to DRA were changes to conform the regulations to legislative provisions, and did not necessitate either a regulatory impact analysis or a regulatory flexibility analysis. The provisions of this final rule that are related to COBRA and OBRA are also conforming changes. The expenditures under the provisions of the regulations are required by the laws and not by the regulations and will be incurred regardless of the promulgation of regulations.

These regulations, in themselves, do not meet any of the criteria for a major rule. In addition, they primarily affect States and individuals, which are not considered small entities for purposes of the RFA. Therefore, we have determined, and the Secretary certifies, that these regulations will not have a significant impact on a substantial number of small entities. Therefore, we have not prepared a regulatory flexibility analysis.

Paperwork Reduction Act of 1980 (Pub. L. 96–511)

These regulations do not impose information collection requirements. Consequently, they do not need to be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

List of Subjects

42 CFR Part 435

Aid to Families with Dependent Children, Grant programs-health, Medicaid, Supplemental Security Income (SSI).

42 CFR Part 436

Aid to Families with Dependent Children, Grant programs-health, Guam, Medicaid, Puerto Rico, Supplemental Security Income (SSI), Virgin Islands.

42 CFR Chapter IV is amended as set forth below:

A. Part 435 is amended as follows:

PART 435—ELIGIBILITY IN THE STATES, THE DISTRICT OF COLUMBIA, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

1. The authority citation for Part 435 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. The table of contents is amended by adding a new undesignated center heading and new §§ 435.116 and 435.117 immediately after existing § 435.115 under Subpart B, to read as follows:

PART 435—ELIGIBILITY IN THE STATES, THE DISTRICT OF COLUMBIA, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

Sec.

* * * * *

Subpart B—Mandatory Coverage of the Categorically Needy

* * * * *

Mandatory Coverage of Pregnant Women, Children Under 5, and Newborn Children

435.116 Qualified pregnant women and children.
435.117 Newborn children.

* * * * *

3. Section 435.3 is revised to read as follows:

§ 435.3 Basis.

(a) This part implements the following sections of the Act and public laws which state eligibility requirements and standards.

402(a)(22) Eligibility of deemed recipients of AFDC who receive zero payments because of recoupment of overpayments.
402(a)(37) Eligibility of individuals who lose AFDC eligibility due to increased earnings.
414(g) Eligibility of certain individuals participating in work supplementation programs.
1619(b) Benefits for blind individuals or those with disabling impairments whose income equals or exceeds a specific SSI limit.
1902(a)(8) Opportunity to apply; assistance must be furnished promptly.
1902(a)(10) Required and optional groups.
1902(a)(12) Determination of blindness.
1902(a)(17) Standards for determining eligibility; flexibility in the application of income eligibility standards.
1902(a)(19) Safeguards for simplicity of administration and best interests of recipients.
1902(a)(34) Three-month retroactive eligibility.
1902(a) (second paragraph after (44)) Eligibility despite increased monthly insurance benefits under title II.
1902(b) Prohibited conditions for eligibility: Age requirement of more that 65 years; State residence requirements excluding individuals who reside in the state; and Citizenship requirement excluding United States citizens.
1902(e) Four-month continued eligibility for families ineligible because of increased hours or income from employment.
1902(e)(2) Minimum eligibility period for recipient enrolled in an HMO.
1902(e)(4) Eligibility of newborn children of Medicaid eligible women.
1902(f) State option to restrict Medicaid eligibility for aged, blind, or disabled individuals to those who would have been eligible under State plan in effect in January 1972.
1902(j) Medicaid progran in American Samoa.
1903(f) Income limitations for medically needy and individuals covered by State supplement eligibility requirements.
1905(a) (clause following (18)) Prohibitions against providing Medicaid to certain institutionalized individuals.
1905(a) (second sentence) Definition of essential person.
1905(a)(i)–(viii) List of eligible individuals.
1905(d)(2) Definition of resident of an intermediate care facility for the mentally retarded.
1905(j) Definition of State supplementary payment.
1905(k) Eligibility of essential spouses of eligible individuals.
1905(n) Definition of qualified pregnant woman and child.
1915(c) Home or community-based services.
412(e)(5) of Immigration and Nationality Act—Eligibility of certain refugees.
Pub. L. 93–66, section 230 Deemed eligibility of certain essential persons.
Pub. L. 93–66, section 231 Deemed eligibility of certain persons in medical institutions.
Pub. L. 93–66, section 232 Deemed eligibility of certain blind and disabled medically indigent persons.
Pub. L. 93–233, section 13(c) Deemed eligibility of certain individuals receiving mandatory State supplementary payments.
Pub. L. 94–566, section 503 Deemed eligibility of certain individuals who would be eligible for supplemental security income benefits but for cost-of-living increases in social security benefits.
Pub. L. 96–272, section 310(b)(1) Continued eligibility of certain recipients of Veterans Administration pensions.

(b) This part implements the following other provisions of the Act or public laws that establish additional State plan requirements:

1618 Requirement for operation of certain State supplementation programs.
Pub. L. 93–66, section 212(a) Required mandatory minimum State supplementation of SSI benefits programs.

4. Section 435.115 is amended by removing paragraph (c), redesignating paragraph (d) as paragraph (c), and adding a new paragraph (d) to read as follows:

§ 435.115 Individuals deemed to be receiving AFDC.

* * * * *

(d) The State must deem to be receiving AFDC those individuals who are denied AFDC payments from the title IV–A State agency solely because that agency is recovering an overpayment.

5. In Subpart B, a new undesignated center heading and new §§ 435.116 and 435.117 are added immediately after § 435.115 to read as follows:

Mandatory Coverage of Pregnant Women, Children Under 5, and Newborn Children

§ 435.116 Qualified pregnant women and children.

(a) The agency must provide Medicaid to a pregnant woman whose pregnancy has been medically verified and who—

(1) Would be eligible for an AFDC cash payment (or would be eligible for an AFDC cash payment if coverage under the State's AFDC plan included an AFDC-unemployed parents program) if her child had been born and was living with her in the month of payment;

(2) Is a member of a family that would be eligible for an AFDC cash payment if the State's AFDC plan included an AFDC-unemployed parents program; or

(3) Meets the income and resource requirements of the State's approved AFDC plan. In determining whether the woman meets the AFDC income and resource requirements, the unborn child or children are considered members of the household, and the woman's family is treated as though deprivation exists.

(b) The provisions of paragraphs (a)(1) and (2) of this section are effective October 1, 1984. The provisions of paragraph (a)(3) of this section are effective July 1, 1986.

(c) The agency must provide Medicaid to children who meet all of the following criteria:

(1) They are born after September 30, 1983 or, at State option, effective no earlier than April 1, 1986, an earlier designated date;

(2) They are under 5 years of age; and

(3) They meet the income and resource requirements of the State's approved AFDC plan.

§ 435.117 Newborn children.

(a) The agency must provide categorically needy Medicaid eligibility to a child born to a woman who is

eligible as categorically needy and is receiving Medicaid on the date of the child's birth. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible as categorically needy for one year so long as the woman remains eligible as categorically needy and the child is a member of the woman's household. If the mother's basis of eligibility changes to medically needy, the child is eligible as medically needy under § 435.301(b)(1)(iii).

(b) The requirements under paragraph (a) of this section apply to children born on or after October 1, 1984.

6. In § 435.301, paragraph (b) introductory text is republished and paragraph (b)(1) is revised to read as follows:

§ 435.301 General rules.

* * * * *

(b) If the agency chooses this option, the following provisions apply:

(1) The agency must provide Medicaid to the following individuals who meet the requirements of paragraph (a) of this section:

(i) All pregnant women during the course of their pregnancy who, except for income and resources, would be eligible for Medicaid as mandatory or optional categorically needy under subparts B or C of this part;

(ii) All individuals under 18 years of age who, except for income and resources, would be eligible for Medicaid as mandatory categorically needy under subpart B of this part;

(iii) All newborn children born on or after October 1, 1984, to a woman who is eligible as medically needy and is receiving Medicaid on the date of the child's birth. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible as medically needy for one year so long as the woman remains eligible and the child is a member of the woman's household. If the woman's basis of eligibility changes to categorically needy, the child is eligible as categorically needy under § 435.119. The woman is considered to remain eligible if she meets the spend-down requirements in any consecutive budget period following the birth of the child.

* * * * *

B. Part 436 is amended as follows:

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

1. The authority citation for Part 436 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

2. The table of contents is amended by adding new §§ 436.120 and 436.124 under Subpart B to read as follows:

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

Sec.

* * * * *

Subpart B—Mandatory Coverage of the Categorically Needy

* * * * *

436.120 Qualified pregnant women and children.

436.124 Newborn children.

* * * * *

3. Section 436.2 is revised to read as follows:

§ 436.2 Basis.

This part implements the following sections of the Act and public laws which state requirements and standards for eligibility:

402(a)(22) Eligibility of deemed recipients of AFDC who receive zero payments because of recoupment of overpayments.

402(a)(37) Eligibility of individuals who lose AFDC eligibility due to increased earnings.

414(g) Eligibility of certain individuals participating in work supplementation programs.

1902(a)(8) Opportunity to apply; assistance must be furnished promptly.

1902(a)(10) Required and optional groups.

1902(a)(12) Determination of blindness.

1902(a)(16) Out-of-State care for State residents.

1902(a)(17) Standards for determining eligibility; flexibility in the application of income eligibility standards.

1902(a)(19) Safeguards for simplicity of administration and best interests of recipients.

1902(a)(34) Three-month retroactive eligibility.

1902(a)(a) (third paragraph after (37)) Eligibility despite increased monthly insurance benefits under title II.

1902(b) Prohibited conditions for eligibility: Age requirements of more than 65 years; State residence requirements excluding individuals who reside in the State; and Citizenship requirement excluding United States citizens.

1902(e) Four-month continued eligibility for families ineligible because of increased hours or income from employment.

1902(e)(2) Minimum eligibility period for recipients enrolled in HMO.

1902(e)(4) Eligibility of newborn children of Medicaid-eligible women.

1905(a) (i)-(viii) List of eligible individuals.

1905(a) (clause following (18)) Prohibitions against providing Medicaid to certain institutionalized individuals.

1905(a) (second sentence) Definition of essential person.

1905(d)(2) Definition of resident of an intermediate care facility for the mentally retarded.

1905(n) Definition of qualified pregnant woman and child.

1915(c) Home or community based services.

412(e)(5) Of Immigration and Nationality Act Eligibility of certain refugees.

Pub. L. 93-66, section 230 Deemed eligibility of certain essential persons.

Pub. L. 93-66, section 231 Deemed eligibility of certain persons in medical institutions.

Pub. L. 93-66, section 232 Deemed eligibility of certain blind and disabled medically indigent persons.

Pub. L. 93-272, section 310(b)(1) Continued eligibility of certain recipients of Veterans' Administration pensions.

4. Section 436.114 is amended by removing paragraph (c), redesignating paragraph (d) as paragraph (c), and adding a new paragraph (d) to read as follows:

§ 436.114 Individuals deemed to be receiving AFDC.

* * * * *

(d) The State must deem to be receiving AFDC those individuals who are denied AFDC payments from the title IV-A State agency solely because that agency to recovering an overpayment.

5. New §§ 436.120 and 436.124 are added to Subpart B to read as follows:

§ 436.120 Qualified pregnant women and children.

(a) The Medicaid agency must provide Medicaid to a pregnant woman whose pregnancy has been medically verified and who—

(1) Would be eligible for an AFDC cash payment (or would be eligible for an AFDC cash payment if coverage under the State's AFDC plan included the AFDC-unemployed parents program) if her child had been born and was living with her in the month of payment;

(2) Is a member of a family that would be eligible for an AFDC cash payment if the State's AFDC plan included an AFDC-unemployed parents program; or

(3) Meets the income and resource requirements of the State's approved AFDC plan. In determining whether the woman meets the AFDC income and resource requirements, the unborn child or children are considered members of the household, and the woman's family is treated as though deprivation exists.

(b) The provisions of paragraphs (a) (1) and (2) of this section are effective October 1, 1984. The provisions of paragraph (a)(3) of this section are effective July 1, 1986.

(c) The agency must provide Medicaid to children who meet all of the following criteria:

(1) They are born after September 30, 1983 or, at State option, effective no

earlier than April 1, 1986, an earlier designated date;

(2) They are under 5 years of age; and

(3) They meet the income and resource requirements of the State's approved AFDC plan.

§ 436.124 Newborn children.

(a) The Medicaid agency must provide categorically needy Medicaid eligibility to a child born to a woman who is eligible for and receiving Medicaid on the date cf the child s birth. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible as categorically needy for one year so long as the woman remains eligible and the child is a member of the woman's household. If the mother's basis of eligibility changes to medically needy, the child is eligible as medically needy under § 436.301(b)(1)(iii)

(b) The requirements under paragraph (a) of this section apply to children born on or after October 1, 1984.

6. In § 436.301, paragraph (b) introductory text is republished and paragraph (b)(1) is revised to read as follows:

§ 436.301 General rules.

* * * * *

(b) If the agency chooses this option, the following provisions apply:

(1) The agency must provide Medicaid to the following individuals who meet the requirements of paragraph (a) of this section:

(i) All pregnant women during the course of their pregnancy who, except for income and resources, would be eligible for Medicaid as mandatory or optional categorically needy under subparts B and C of this part;

(ii) All individuals under 18 years of age who, except for income and resources, would be eligible for Medicaid as mandatory categorically needy under subpart B of this part;

(iii) All newborn children born on or after October 1, 1984, to a woman who is eligible as medically needy and receiving Medicaid on the date of the child's birth. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible as medically needy for one year so long as the woman remains eligible and the child is a member of the woman's household. If the woman's basis of eligibility changes to categorically needy, the child is eligible as categorically needy under § 436.124. The woman is considered to remain eligible if she meets the spend-down requirements in any consecutive budget period following the birth of the child.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.714—Medical Assistance Program)

Dated: April 16, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: August 3, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87-25763 Filed 11-6-87; 8:45 am]

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NATIONAL SCIENCE FOUNDATION

45 CFR Part 612

Freedom of Information Act

AGENCY: National Science Foundation.

ACTION: Final rule.

SUMMARY: The National Science Foundation amends its Freedom of Information Act regulations as follows. These changes are intended to reflect the Congressional amendments passed in 1986 and to present a uniform schedule of FOIA fees, fee guidelines, and fee waivers. Comments were received and are addressed below.

DATE: The amendments are effective November 9, 1987.

FOR FURTHER INFORMATION CONTACT: Mary Ellen Schoolmaster, FOIA Officer, National Science Foundation, 1800 G Street NW., Washington, DC 20550. Phone: 202-357-9498.

SUPPLEMENTARY INFORMATION: NSF issued a notice of proposed rule making on May 5, 1987, and invited comments. Commenters requested simpler and less restrictive fee waiver regulations so as to be, in their view, truer to Congressional intent. There were also requests that the fee waiver standards proposed by the Department of Justice be rejected as inconsistent with Congressional intent and that NSF should adopt a "more efficient and practical" approach. There was a request that NSF delete the specific tests referred to in the Department of Justice's policy guidance and incorporate fee waiver regulations which the commenters felt to be consistent with the intent of the new amendments. Other comments requested that NSF reexamine and change its definition of "representative of the news media" which it was alleged could require the agency to make editorial determinations in deciding whether a requester is entitled to the benefits of being placed in that category. Comments were also received requesting that NSF reexamine and delete the requirement that the agency determine whether a requester is entitled to waiver of fees because of the material requested (i.e., information about current events or of current interest to the public) rather than because the requester is a representative of the news media.

In response to the comments received, the NSF intends to broadly interpret the fee waiver portions of the new amendments to the FOIA. Many of these same comments were received and addressed by the Office of Management and Budget, and NSF is in agreement with that agency's responses and their regulations relating to rates to be charged and on definitions generally. The NSF expects to be guided by the intent of the Congress, as it is discerned by the Justice Department and as it may be found by the Courts. There is no reason to believe that the regulations would result in the types of extreme applications that the commenters fear. The fact remains that the Justice Department would legally represent this agency in the event of a suit and, therefore, NSF will abide by the standards set in the guidance the Justice Department issues.

Conforming changes are also made to the exemptive provisions relating to law enforcement records, 5 U.S.C. 552(b)(7).

As the amendments do not impose any recordkeeping or information collection requirements, the Paperwork Reduction Act does not apply. Also, the requirements of the Regulatory Flexibility Act are inapplicable as the amendments do not have a substantial economic impact on a significant number of small entities.

List of Subjects in 45 CFR Part 612

Freedom of information.

For the reasons set out in the preamble, Part 612 of Title 45 of the Code of Federal Regulations is amended as follows:

PART 612—[AMENDED]

1. The authority citation for Part 612 is revised to read as follows:

Authority: 5 U.S.C. 552, as amended.

§ 612.6 [Removed and Reserved]

(a) * * *

2. By removing and reserving § 612.6.

3. By revising § 612.8(a)(7) to read as set forth below.

§ 612.8 [Amended]

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings,

(ii) Would deprive a person or a right to a fair trial or an impartial adjudication,

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy,

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis,

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

* * * * *

4. By adding §§ 612.9, 612.10, 612.11, 612.12 and 612.13 to read as set forth below.

§ 612.9 Fees to be charged—definitions.

For the purpose of these Guidelines:

(a) All the terms defined in the Freedom of Information Act apply.

(b) A "statute specifically providing for setting the level of fees for particular types of records" (5 U.S.C. 552(a)(4)(A)(vi)) means any statute that specifically requires a government agency, such as the Government Printing Office (GPO) or the National Technical Information Service (NTIS), to set the level of fees for particular types of records, in order to:

(1) Serve both the general public and private sector organizations by conveniently making available government information;

(2) Ensure that groups and individuals pay the cost of publications and other services which are for their special use so that these costs are not borne by the general taxpaying public;

(3) Operate an information dissemination activity on a self-sustaining basis to the maximum extent possible; or

(4) Return revenue to the Treasury for defraying, wholly or in part, appropriated funds used to pay the cost of disseminating government information. Statutes, such as the User Fee Statute, which only provide a general discussion of fees without explicitly requiring that an agency set and collect fees for particular documents do not supersede the Freedom of Information Act under section (a)(4)(A)(vi) of that statute.

(c) The term "direct costs" means those expenditures which an agency actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

(d) The term "search" includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. NSF shall ensure that searching for material is done in the most efficient and least expensive manner so as to minimize costs for both the agency and the requester. For example, NSF shall not engage in line-by-line search when merely duplicating an entire document would prove the less expensive and quicker method of complying with a request. "Search" should be distinguished, moreover, from "review" of material in order to determine whether the material is exempt from disclosure (see paragraph (f) of this section). Searches may be done manually or by computer using existing programming.

(e) The term "duplication" refers to the process of making a copy of a document necessary to respond to a FOIA request. Such copies can take the form of paper copy, microform, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk), among others. The copy provided must be in a form that is reasonably usable by requesters.

(f) The term "review" refers to the process of examining documents located in response to a request that is for a commercial use (see paragraph (g) of this section) to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, e.g., doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(g) The term " 'commercial use' request" refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, NSF shall determine the use to which a requester will put the documents requested. Moreover, where NSF has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, NSF shall seek additional clarification before assigning the request to a specific category.

(h) The term "educational institution" refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(i) The term "non-commercial scientific institution" refers to an institution that is not operated on a "commercial" basis as that term is referenced in paragraph (g) of this section, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(j) The term "representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. Moreover, as traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but NSF may also look to the past publication record of a requester in making this determination.

§ 612.10 Fees to be charged—general.

NSF shall charge fees that recoup the full allowable direct costs they incur. Moreover, NSF shall use the most efficient and least costly methods to comply with requests for documents made under the FOIA. NSF will contract with private sector services to locate,

reproduce and disseminate records in response to FOIA requests when that is the most efficient and least costly method. When doing so, however, NSF shall ensure that the ultimate cost to the requester is no greater than it would be if NSF itself had performed these tasks. In no case will NSF contract out responsibilities which the FOIA provides that it alone may discharge, such as determining the applicability of an exemption, or determining whether to waive or reduce fees. In addition, NSF shall ensure that when documents that would be responsive to a request are maintained for distribution by agencies operating statutory-based fee schedule programs (see definition in § 612.9(b), such as the NTIS, they inform requesters of the steps necessary to obtain records from those sources.

(a) *Manual searches for records.* Whenever feasible, NSF shall charge at the salary rate(s) (i.e. basic pay plus 16 percent) of the employee(s) making the search. However, where a homogeneous class of personnel is used exclusively (e.g., all administrative/clerical, or all professional/executive), NSF may establish an average rate for the range of grades typically involved. Thus, for each one-quarter hour after the first quarter hour, for search of a record by clerical personnel, $1.25. For nonroutine, nonclerical search by professional personnel, for example, where the task of determining which records fall within a request and search requires professional or managerial time, the charge is $3.75 for each one-quarter hour spent in excess of the first quarter hour.

(b) *Computer searches for records.* NSF shall charge at the actual direct cost of providing the service. This will include the cost of operating the central processing unit (CPU) for that portion of operating time that is directly attributable to searching for records responsive to a FOIA request and operator/programmer salary apportionable to the search. When NSF can establish a reasonable agency-wide average rate for CPU operating costs and operator/programmer salaries involved in FOIA searches, the Foundation will do so and charge accordingly.

(c) *Review of records.* Only requesters who are seeking documents for commercial use may be charged for time NSF spends reviewing records to determine whether they are exempt from mandatory disclosure. It should be noted that charges may be assessed only for the *initial* review; i.e., the review undertaken the first time NSF analyzes the applicability of a specific exemption to a particular record or portion of a record. NSF may not charge for review at the administrative appeal level of an exemption already applied. However, records or portions of records withheld in full under an exemption which is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs for such a subsequent review would be properly assessable. Where a single class of reviewers is typically involved in the review process, NSF may establish a reasonable agency-wide average and charge accordingly.

(d) *Duplication of records.* NSF shall establish an average agency-wide, per-page charge for paper copy reproduction of documents. This charge shall represent the reasonable direct costs of making such copies, taking into account the salary of the operators as well as the cost of the reproduction machinery. For copies prepared by computer, such as tapes or printouts, NSF shall charge the actual cost, including operator time, of production of the tape or printout. For other methods of reproduction or duplication, NSF shall charge the actual direct costs of producing the document(s). For photocopies of documents, $0.10 per copy per page will be charged. In practice, if NSF estimates that duplication charges are likely to exceed $25, it shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. Such a notice shall offer a requester the opportunity to confer with agency personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(e) *Other charges.* It should be noted that complying with requests for special services such as those listed below is entirely at the discretion of NSF. Neither the FOIA nor its fee structure cover these kinds of services. NSF shall recover the full costs of providing services such as those enumerated below to the extent that it elects to provide them:

(1) Certifying that records are true copies;

(2) Sending records by special methods such as express mail.

(f) *Restrictions on assessing fees.* With the exception of requesters seeking documents for a commercial use, section (4)(A)(iv) of the Freedom of Information Act, as amended, requires NSF to provide the first 100 pages of duplication and the first two hours of search time without charge. Moreover, this section prohibits NSF from charging fees to any requester, including commercial use requesters, if the cost of collecting a fee would be equal to or greater than the fee itself. These provisions work together, so that except for commercial use requesters, NSF would not begin to assess fees until after they had provided the free search and reproduction. For example, for a request that involved two hours and ten minutes of search time and resulted in 105 pages of documents, NSF will determine the cost of only 10 minutes of search time and only five pages of reproduction. If this cost was equal to or less that the cost to the agency of billing the requester and processing the fee collected, no charges would result.

The elements to be considered in determining the "cost of collecting a fee," are the administrative costs to the NSF of receiving and recording a requester's remittance, and processing the fee for deposit in the Treasury Department's special account (or the NSF's account if the agency is permitted to retain the fee). The per-transaction cost to the Treasury to handle such remittances is negligible and shall not be considered in the NSF's determination. For purposes of these restrictions on assessment of fees, the word "pages" refers to paper copies of a standard agency size which will normally be "8½ x 11" or "11 by 14." Thus, requesters would not be entitled to 100 microfiche or 100 computer disks, for example. A microfiche containing the equivalent of 100 pages or 100 pages of computer printout, however, might meet the terms of the restriction. Similarly, the term "search time" in this context has as its basis *manual search.* To apply this term to searches made by computer, NSF shall determine the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent. When the cost of the search (including the operator time and the cost of operating the computer to process a request) equals the equivalent dollar amount of two hours of the salary of the person performing the search, i.e., the operator, NSF shall begin assessing charges for computer search.

§ 612.11 Fees to be charged—categories of requesters.

There are four categories of FOIA requesters: Commercial use requesters; educational and non-commercial scientific institutions; representatives of the news media; and all other requesters. The Act prescribes specific levels of fees for each of these categories:

(a) *Commercial use requesters.* When a request for documents for commercial use is received, NSF shall assess charges which recover the full direct

cost of searching for, reviewing for release, and duplicating the records sought. Requesters must reasonably describe the records sought. Commercial use requesters are not entitled to two hours of free search time nor 100 free pages of reproduction of documents. NSF may recover the cost of searching for and reviewing records even if there is ultimately no disclosure of records (see paragraph (b) of this section.

(b) *Educational and non-commercial scientific institution requesters.* NSF shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters must show that the request is being made as authorized by and under the auspices of a qualifying institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research. Requesters must reasonably describe the records sought.

(c) *Requesters who are representatives of the news media.* NSF shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category a requester must meet the criteria in § 612.6.1 j of this part, and his other request must not be made for a commercial use. In reference to this class of requester, a request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for a commercial use. Requesters must reasonably describe the records sought.

(d) *All other requesters.* NSF shall charge requesters who do not fit into any of the categories above fees which recover the full reasonable direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without charge. Moreover, requests from record subjects for records about themselves filed in NSF's systems of records will continue to be treated under the fee provisions of the Privacy Act of 1974 which permit fees only for reproduction. Requesters must reasonably describe the records sought.

§ 612.12 Administrative actions to improve assessment and collection of fees.

NSF shall ensure that procedures for assessing and collecting fees are applied consistently and uniformly by all components. To do so, NSF amends its FOIA regulations to conform to the provisions of this Fee Schedule and Guidelines, especially including the following elements:

(a) Charging Interest—Notice and Rate. NSF may begin assessing interest charges on an unpaid bill starting on the 31st day following the day on which the billing was sent. NSF shall ensure that their accounting procedures are adequate to properly credit a requester who has remitted the full amount within the time period. The fact that the fee has been received by the agency, even if not processed, will suffice to stay the accrual of interest. Interest will be at the rate prescribed in section 3717 of Title 31 U.S.C. and will accrue from the date of the billing.

(b) Charges for Unsuccessful Search. NSF may assess charges for time spent searching, even if NSF fails to locate the records or if records located are determined to be exempt from disclosure. In practice, if NSF estimates that search charges are likely to exceed $25, it shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. Such a notice shall offer the requester the opportunity to confer with agency personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(c) Aggregating Requests. Except for requests that are for a commercial use, NSF shall not charge for the first two hours of search time or for the first 100 pages of reproduction. However, a requester may not file multiple requests at the same time, each seeking portions of a document or documents, solely in order to avoid payment of fees. When NSF reasonably believes that a requester or, on rare occasions, a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, NSF may aggregate any such requests and charge accordingly. One element to be considered in determining whether a belief would be reasonable is the time period in which the requests have occurred. For example, it would be reasonable to presume that multiple requests of this type made within a relatively short period had been made to avoid fees. For requests made over a longer period, however, such a presumption becomes harder to sustain and NSF should have a basis for determining that aggregation is warranted in such cases.

(d) Advance Payments. NSF shall not require a requester to make an advance payment, i.e., payment before work is commenced or continued on a request, unless:

(1) The NSF estimates or determines that allowable charges that a requester may be required to pay are likely to exceed $250. Then, NSF should notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(2) A requester has previously failed to pay a fee charged in a timely fashion (i.e. within 30 days of the date of the billing), NSF may require the requester to pay the full amount owed plus any applicable interest as provided above or demonstrate that he has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the NSF begins to process a new request or a pending request from that requester.

(e) When NSF acts under paragraphs (d) (1) or (2) of this section, the administrative time limits prescribed in subsection (a)(6) of the FOIA (i.e., 10 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial, plus permissible extensions of these time limits) will begin only after NSF has received fee payments described above.

§ 612.13 Waivers or reductions.

(a) Employees of the National Science Foundation are encouraged to waive fees whenever the statutory fee waiver standard is met. However, employees are expected to respect the balance drawn in the statute, safeguarding federal funds by granting waivers or reductions only where it is determined that the following statutory standard is satisfied:

> Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(b) NSF will employ the following six factors in determining when FOIA fees should be waived or reduced:

(1) The subject of the request: Whether the subject of the requested records concerns "the operations or activities of the government";

(2) The informative value of the information to be disclosed: whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

(3) The contribution to an understanding of the subject by the general public likely to result from disclosure: Whether disclosure of the requested information will contribute to "public understanding";

(4) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities.

(5) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(6) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

(c) NSF will use U.S. Department of Justice policy guidance in applying the foregoing factors.

Dated: October 23, 1987.

Erich Bloch,

Director.

[FR Doc. 87-25764 Filed 11-6-87; 8:45 am]

BILLING CODE 7555-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

[CC Docket No. 86-423; FCC 87-318]

Petition for Modification; Terminal Equipment Line Power To Operate Continuity of Output Functions

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: The Commission has amended § 68.318(b) of the rules to eliminate as of December 18, 1989 the requirement that telephone companies provide line power to operate continuity of output functions in terminal equipment connected to 1.544 Mbps service. In addition, as of that date, terminal equipment connecting to 1.544 Mbps service is no longer required to contain continuity of output functions. The Commission stated that these requirements were eliminated because they had not been shown to be necessary for protection to the telephone network.

EFFECTIVE DATE: December 18, 1987.

FOR FURTHER INFORMATION CONTACT: Patrick Donovan, Domestic Facilities Division, Common Carrier Bureau, (202) 634-1832.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order adopted October 8, 1987, and released October 23, 1987, CC Docket 86-423 eliminating the requirements of § 68.318(b) as of December 18, 1989.

The full text of the Commission's decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Commission Decision

The Commission has eliminated as of December 18, 1989 the requirements in § 68.318 that (1) telephone companies provide line power to operate continuity of output functions in terminal connected to 1.544 Mbps digital service and (2) such terminal equipment contain continuity of output capability. Prior to December 18, 1989 these requirements remain in effect except that for 1.544 Mbps circuits placed in service after February 18, 1988, telephone companies are not required to provide line power. After December 18, 1989, the Commission stated that telephone companies will be permitted to require for an additional three years that terminal equipment contain continuity of output capability. In addition, the Commission provided that effective December 18, 1987 terminal equipment may be registered that does not accept power for continuity of output functions from the telephone line, *i.e.*, equipment that relies exclusively on power from the customer's premises. The Commission also stated that it would permit registration of terminal equipment intended for connection to 1.544 Mbps service as of December 18, 1988 that does not have continuity of output capability, but that such equipment could not be connected until December 18, 1989. The Commission stated that the reason for eliminating the requirements of § 68.318(b) was that it had been shown on the record of this proceeding that those requirements were necessary for protection to the telephone network.

Ordering Clauses

1. Accordingly, *It Is Ordered*, pursuant to sections 1, 4, 201-205, 215, 220, 313, 309(e)-(h) and 412 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201-205, 215, 218, 220, 313, 309(e)-(h), and 412, and 5 U.S.C. 553, That Part 68 of the Commission's Rules, 47 CFR Part 68 is amended as set forth below effective December 18, 1987.

1.1. *It Is Further Ordered*, That carriers subject to the Commission's jurisdiction under section 201-205 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 201-205, currently providing 1.544 Mbps service notify customers of such service within sixty days from the effective date of this decision that carriers will no longer be required to provide line power for such service in accordance with the dates established herein.

1.2. *It Is Further Ordered*, That the Secretary shall cause a summary of this decision to be printed in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

List of Subjects in 47 CFR Part 68

Communications common carriers, Communications equipment, Telephone.

Part 68 of the Commission's Rules and Regulations (Chapter I of Title 47 of the Code of Federal Regulations, Part 68) is amended as follows:

PART 68—[AMENDED]

1. The authority citation for Part 68 Subpart D continues to read as follows:

Authority: Secs. 4, 5, 303, 48 Stat. 1066, 1068, 1082, as amended (47 U.S.C. 154, 155, 303).

2. Section 68.318 is amended to revise paragraph (b) to read as follows:

§ 68.318 Additional Limitations.

* * * * *

(b) Registered terminal equipment connecting to 1.544 Mbps digital service.

(1) Until December 18, 1989, terminal equipment connecting to 1.544 Mbps service shall contain circuitry that assures continuity of output signal. This equipment shall assure that either the outgoing signal meets the minimum pulse density requirement below or one of the specified keep alive signals is transmitted. Power to operate this equipment may come from the line or premises power. Line powered functioning shall be achieved as follows: A direct current connection shall be provided between the simplexes of the transmit and receive pairs. The line power to operate the equipment which assures continuity of the output signal shall be derived from the direct current connection between the simplexes of the transmit and receive pairs. For circuits placed in service prior to February 18,

1988, the telephone company will drive 60 mA through this connection from a constant current source. With 60 mA between the transmit and receive pairs, the voltage drop between the transmit pairs shall not exceed 67 volts. The minimum acceptable average pulse density is 0.125. The maximum acceptable length of a continuous sequence of "zeros" is 80 pulse positions. The keep alive signal inserted when the pulse density drops to low shall be one of the following:

(i) *Type 1 Keep Alive Signal.* This signal is a consecutive sequence of all "ones".

(ii) *Type 2 Keep Alive Signal.* This signal is a sequence of 193-bit frames consisting of a framing bit plus 192-bit sequence of consecutive "ones". The framing bit executes the following repetitive pattern every 12 frames:

1 0 0 0 1 1 0 1 1 1 0 0

(ii) *Type 3 Keep Alive Signal.* This signal sequence is the regenerated received signal connected to the transmit port through a loopback circuit.

(2) For circuits placed in service on or after February 18, 1988, and for all circuits as of December 18, 1989 whenever such circuits were placed in service, the telephone company is not required to provide line power to operate continuity of output functions in terminal equipment connecting to 1.544 Mbps service. As of December 18, 1989 such terminal equipment is not required to contain continuity of output capability, provided, however, that telephone companies by tariff may require that such equipment contain the continuity of output capability described in this paragraph up to December 18, 1992. Applications for registration of terminal equipment for connection to 1.544 Mbps service which does not contain continuity of output capability shall be accepted as of December 18, 1988, but eligibility for connection to 1.544 Mbps service shall be governed by this paragraph.

[FR Doc. 87-25809 Filed 11-6-87; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-11; FCC 87-337]

Call Sign Assignments for Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The action taken herein addresses several rules regarding call sign assignments for broadcast stations. First, the Commission is modifying its rules to permit non-commonly owned broadcast stations in different services to be assigned the same basic call sign provided that the call sign applicant obtains consent from the station or stations already assigned the desired call sign. This change will provide additional flexibility in assignment of conforming call signs while maintaining adequate safeguards to avoid certain types of problems within the broadcast industry. Second, the Commission is modifying its first-come-first-served policy for call sign assignments to provide an exception to permit call sign exchanges between licensees or transfers of a station to another frequency within a given market. This will allow licensees in these situations to avoid risking the loss of a long established call sign. Finally, the Commission is retaining the geographical restriction on the assignment of call letters beginning with the letters K and W.

EFFECTIVE DATE: December 14, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Scott Roberts, Mass Media Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in MM Docket No. 87-11, adopted October 20, 1987, and released October 30, 1987.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3000, 2100 M Street, Northwest, Suite 140, Washington, DC 20037.

Summary of the Report and Order

1. On February 4, 1987, the Commission adopted a *Notice of Proposed Rule making* (*Notice*), 52 FR 7627, to consider changes to its broadcast call sign rules. In the *Notice*, the Commission proposed: (1) To eliminate the restrictions on the use of conforming call signs by stations that are not commonly owned, but require a station wishing to use a call sign already assigned to another station within the same market to obtain consent from that other station; (2) to modify the first-come-first-served rule to allow stations tranferring to another frequency in the same market to retain their call signs; and (3) to eliminate the K, W first letter geographic restriction altogether. These proposals are discussed in order.

2. The first issue concerns the assignment of conforming basic call signs. The current rules provide that identical basic call signs can be assigned only to commonly-controlled stations in different broadcast services. This rule was intended to prevent public confusion and to prohibit one broadcaster from trading on the goodwill of another. In considering this rule, the Commission recognizes that there may still be potential problems of misidentification associated with the use of common call signs by non-common owners that could pose difficulties within the broadcast industry. However, the Commission also finds that an absolute ban on such usage is not necessary. Based on the experiences of past actions in this area, it is plain that there are situations where use of conforming call signs by non-common owners would not have disruptive effects on broadcast markets. The Commission concludes that the potential problems with the use of the same call signs can be avoided by requiring a call sign applicant to obtain the permission of any other station(s) that may already be using the desired call sign. In this regard, economic incentives appear adequate to direct individual stations to avoid any undesirable uses of conforming call signs. Accordingly, the Commission modifies its rules herein to permit assignment of the same basic call sign to stations in different services that are not commonly owned, subject to the requirement that an applicant for a conforming call sign obtain, and submit with its application, written permission from any other station(s) that may already be assigned the desired call sign. In view of the fact that broadcast stations sell time and participate in program supply and other markets on a national basis, call sign applicants will be required to obtain permission from any other station in the country using the desired call sign.

3. The second issue concerns the first-come-first-served policy for call sign assignments. Under the current procedures, a licensee seeking a new call sign requests the call sign change and at the same time must relinquish its existing call sign. The relinquished call sign is not available until the effective date of the call sign change, at which time it can be assigned to the first applicant requesting it. The rules do not provide an exception for call sign exchanges or transfers to other frequencies by stations within a given market to avoid risking the loss of a

long-established call sign. The Commission notes that staff has permitted exceptions to the first-come-first-served policy in the case of call sign swaps between commonly-owned stations in the same city and where a broadcaster transferred operations, staff and format to a new frequency in the same market. On this basis, the Commission modifies its rules to authorize these exceptions on a routine basis, thus eliminating the need to justify such transfers on an ad hoc basis.

4. The third and final issue concerns the geographical restriction on the assignment of call letters beginning with the letters K and W. Currently, the rules require that call signs east of the Mississippi River begin with the letter W, and those west of the Mississippi River begin with the letter K. Upon examination of the record, the Commission believes that there is benefit in maintaining the traditional radio conventions embodied in the K and W assignments. The Commission also notes that there is no shortage of call signs that would warrant an elimination of the east, west restriction on the assignment of K and W. In view of these considerations, the Commission retains the geographic restriction on the assignment of K and W as the first letter of call signs.

5. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the rules adopted herein will not have a significant impact on licensees because the new rules are not burdensome. On the other hand, they should provide increased options for all licensees seeking new or modified call signs.

6. The rules adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified requirements or burdens on the public. Implementation of these new/modified requirements and burdens will be subject to approval by the Office of Management and Budget as prescribed by the Act.

7. Accordingly, it is ordered that under the authority contained in section 4(i) and 303 of the Communications Act of 1934, as amended, Part 73 of the Commission's Rules and Regulations are amended as set forth below. These rules and regulations are effective December 14, 1987.

8. It is further ordered that this proceeding is terminated.

List of Subjects in 47 CFR Part 73

Radio broadcast services.

Rule Changes

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

2. Section 73.3550 is amended by revising paragraph (d), amending paragraph (h) by adding a note, revising paragraph (i), and adding a new paragraph (n) to read as follows:

§ 73.3550 Requests for new or modified call sign assignments.

* * * * *

(d) Where an application is granted by the FCC for transfer or assignment of the construction permit or license of a station whose existing call sign conforms to that of a commonly owned station not part of the transaction, the licensee shall, within 30 days after consummation, request a different call sign or submit a statement of written consent to retain the conforming call sign from the existing owner and the licensee of any other station that may be using the station's call sign. In such cases, should a suitable application or proper consent statement not be submitted within that period of time, the FCC will, on its own motion, select an appropriate call sign and effect the change in call sign assignment.

* * * * *

(h) * * *

Note.—The provisions of paragraph (h) of this section shall not apply to a licensee requesting a transfer to another frequency where the existing and new facilities serve substantially the same area (i.e. where at least one of the stations serves both communities of license).

(i) Stations in different broadcast services which are under common control may request that their call signs be conformed by the assignment of the same basic call sign if that call sign is not being used by a non-commonly owned station. For the purposes of this paragraph, 50% or greater common ownership shall constitute a prima facie showing of common control.

* * * * *

(n) Where a requested call sign, without the "–FM" or "–TV" suffix, would conform to the call sign of any other non-commonly owned station(s) operating in a different service, the applicant must obtain and submit with the application for the call sign the written consent of the licensee(s) of such station(s).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-25811 Filed 11-6-87; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 52, No. 216
Monday, November 9, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 401

[Amdt. No. 8; (Doc. No. 4625S)]

General Crop Insurance Regulations; Canning and Processing Bean Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by adding a new subpart, 7 CFR 401.118 to be known as the Canning and Processing Bean Endorsement. The intended effect of this rule is to add crop insurance protection on canning and fresh beans grown under contract as an endorsement to the General Crop Insurance policy which contains the standard terms and conditions common to most crops. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than December 9, 1987, to be sure of consideration.

ADDRESS: Written comments, data, and opinions on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is established as July 1, 1992.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) an annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.118, the Canning and Processing Bean Endorsement, effective for the 1988 and succeeding crop years, to provide the provisions for insuring fresh beans grown under contract with a processor for canning and processing.

In adding the new Canning and Processing Bean Endorsement to 7 CFR Part 401 as outlined below, FCIC herewith highlights some of the important provisions in the policy for insuring beans as follows:

1. *Section 1*—Allow fresh lima beans to be insurable as canning and processing beans. Require a processor contract to be in effect before beans are insurable under this endorsement. Provide that the actuarial table contain provisions for insurance coverage on beans planted in consecutive years in those counties where yearly crop rotation because of soil organisms and root diseases is not a requirement.

2. *Section 2*—Specify that beans not timely harvested will be insured only if the harvesting equipment cannot get on the unit due to adverse weather.

3. *Section 7*—Allow the actuarial table to designate production to count. This is applicable in areas where seive sizes are used to determine production.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the **Federal Register**. Written comments received pursuant to this proposed rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

General crop insurance regulations, Canning and processing bean endorsement.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, in the following instances:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 74–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Part 401 is amended to add a new section to be known as 7 CFR 401.118, Canning and Processing Bean Endorsement, proposed to be effective for the 1988 and succeeding crop years, to read as follows:

§ 401.118 Canning and Processing Bean Endorsement

The provisions of the Canning and Processing Bean Endorsement for the 1988 and subsequent crop years are as follows:

Federal Crop Insurance Corporation Canning and Processing Bean Endorsement

1. Insured crop and acreage.

a. The crop insured will be beans (including fresh lima beans) which are planted for harvest as canning or processing beans.

b. In addition to the beans not insurable in section 2 of the general crop insurance policy, we do not insure any beans;

(1) Not grown under a contract with a canner, processor or broker or excluded from the canner, processor or broker contract for, or during, the crop year (The contract must be executed and effective before you report your acreage);

(2) Planted for the fresh market; or

(3) Planted to snap beans, lima beans, green peas, mint, rye, soybeans, or sunflowers the previous crop year unless otherwise provided for by the actuarial table.

c. An instrument in the form of a "lease" under which you retain control of the acreage on which the insured beans are grown and which provides for delivery under certain conditions and at a stipulated price will, for the purpose of this endorsement, be treated as a contract under which you have a share in the beans.

2. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects;

(4) Plant disease;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting; unless those causes are excepted, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy.

b. In addition to the causes not insured against in section 1 of the general crop insurance policy, we will not insure against any loss of production due to the crop not being timely harvested unless such delay in harvesting is solely and directly due to adverse weather conditions which preclude harvesting equipment from entering into and moving about the unit.

3. Annual Premium.

The annual premium amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

4. Insurance Period.

In addition to the provisions in section 7 of the general crop insurance policy, the date by which bean acreage should have been harvested is added as one of the dates, the earliest of which is used to designate the end of the insurance period. The calendar date for the end of the insurance period is the applicable date of the year in which the beans are normally harvested, as follows:

New York—Snap Beans.....September 30.
All other States—Snap Beans....September 20.
All States—Lima Beans.....October 5.

5. Unit Division.

Bean acreage by type (snap or lima) that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided into more than one unit if you agree to pay and additional premium if required by the actuarial table and if for each proposed unit you maintain written, verifiable records of planted acreage and harvested production for at least the previous crop year and either

a. Acreage planted to the insured beans is located in separate, legally identifiable sections or, in the absence of section descriptions, the land is identified by separate ASCS Farm Serial Numbers, provided:

(1) The boundaries of the sections or ASCS Farm Serial Numbers are clearly identified and the insured acreage can be easily determined; and

(2) The beans are planted in such a manner that the planting pattern does not continue into the adjacent section or ASCS Farm Serial Number; or

b. The acreage planted to the insured beans is located in a single section or ASCS Farm Serial Number and consists of acreage on which both an irrigated and nonirrigated practice are carried out, provided:

(1) Beans planted on irrigated acreage do not continue into nonirrigated acreage in the same rows or planting pattern (Nonirrigated corners of a center pivot irrigation system planted to insurable beans are part of the irrigated unit. Production on the total unit, both irrigated and non-irrigated, will be combined to determine the yield for the purpose of determining the guarantee for the unit); and

(2) Planting, fertilizing and harvesting are carried out in accordance with recognized good irrigated and nonirrigated farming practices for the area.

If you have a loss on any unit, production records for all harvested units must be provided. Production that is commingled between optional units will cause those units to be combined.

6. Notice of damage or loss.

In addition to the notices required in section 8 of the general crop insurance policy if you are going to claim an indemnity on any unit which is not to be harvested or on which harvest has been discontinued, you must give us notice not later than 48 hours:

(1) after the time harvest would normally start; or

(2) after discontinuance of harvest.

a. For the purposes of section 8 of the general crop insurance policy the representative sample of the unharvested crop must be at least 10 feet wide and the entire length of the field.

7. Claim for indemnity.

a. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total bean production (tons) to be counted;

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

b. The total production (tons) to be counted for a unit will include all harvested and appraised production.

(1) The tons of harvested production will be either the total net tons delivered to the processor or broker for which payment was received, as shown on the processor or broker settlement sheet, or shall be determined by dividing the dollar amount received from the processor or broker by the contract price for the sieve size or grade factor designated by the actuarial table.

(2) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good bean farming practices;

(b) Not less than the guarantee for any acreage which is abandoned, put to another use withut our prior written consent or damaged solely by an uninsured cause; and

(c) Appraised production on unharvested acreage;

(d) If any acreage is not timely harvested, the production to count will be the greater of:

(i) That designated by the actuarial table;

(ii) The appraised production; or

(iii) The dollar amount received from the processor divided by the processor's base contract price per ton.

(e) Appraised production on insured acreage for which we have given written consent to be put to another use unless such acreage is:

(i) Not put to another use before harvest of beans becomes general in the county and is reappraised by us;

(ii) Further damaged by an insured cause and is reappraised by us; or.

(iii) Harvested.

8. Cancellation and termination dates.

The cancellation and termination date for all states is April 15.

9. Contract changes.

The date by which contract changes will be available in your service office is December 31 preceding the cancellation date.

10. Meaning of terms.

a. "Harvest" means the mechanical picking of bean pods from the vines for the purpose of delivery to the canner or processor.

Done in Washington, DC., on November 4, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-25916 Filed 11-6-87; 8:45 am]

BILLING CODE 3410-08-M.

FARM CREDIT ADMINISTRATION

12 CFR Part 611

Organization; Director Compensation

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board (Board), publishes for comment a proposed amendment to the director compensation regulation at 12 CFR 611.1020.

The FCA published the final regulation on this subject on September 25, 1987, to become effective upon the expiration of 30 days after publication during which either or both Houses of Congress are in session. Notice of the effective date will be published. In the course of reviewing this final regulation, the Board determined that an amendment to it should be proposed for public comment.

DATE: Written comments are due on or before January 8, 1988.

ADDRESS: Submit any comments in writing (in triplicate) to Anne E. Dewey, Acting General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.

FOR FURTHER INFORMATION CONTACT: Joanne P. Ongman, Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: On September 25, 1987, the FCA published a final regulation (52 FR 36012) relating to the compensation of members of Farm Credit System (System) district boards, 12 CFR 611.1020. In the course of reviewing this final regulation, the FCA Board perceived a need for an amendment to it. Specifically, the Board proposes to amend 12 CFR 611.1020 to add a new paragraph (d). This new paragraph ensures the rights of shareholders to obtain a copy of the district board policy regarding compensation of district directors required under 12 CFR 611.1020(b) and also to inspect and copy the supporting records required to be maintained under 12 CFR 611.1020(c).

The Board believes that the proposed amendment carries out the objectives of the Farm Credit Act of 1971, 12 U.S.C. 2001 et seq. (1971 Act), as amended. One of the purposes of the 1971 Act was to encourage borrower/shareholder participation in the management of System institutions. The Farm Credit Amendments Act of 1985, Pub. L. 99-205, expressly authorized the FCA to regulate disclosure of financial information to shareholders. Disclosure of a district board's director compensation policy and the supporting records will promote shareholder participation in System institution affairs by providing shareholders with information helpful in evaluating the performance of fiduciary duties by directors. Such disclosure could lead to more efficient operations by making directors more directly accountable to shareholders for their actions

List of Subjects in 12 CFR Part 611

Accounting, Agriculture, Archives and records, Banks, Banking, Credit, Government securities, Investments, Organization and functions (Government agencies), Rural areas.

For the reasons stated in the preamble, Part 611 of Chapter VI, Title 12, of the Code of Federal Regulations is proposed to be amended as follows:

PART 611—ORGANIZATION

1. The authority citation for Part 611 continues to read as follows:

Authority: 12 U.S.C. 2031, 2061, 2162, 2183, 2216-2216k, 2243, 2244, 2250, 2252.

Subpart F—General Rules for the Districts

2. Section 611.1020 is amended by adding a new paragraph (d) to read as follows:

§ 611.1020 Compensation of district board members.

* * * * *

(d) Each district board shall ensure that a shareholder shall have a right to inspect a copy of the policy and the records required to be maintained by this section. Upon written request to the institution, a copy of the policy and records related to director compensation will be furnished to a shareholder. The institution may require payment of the ordinary and reasonable copying costs.

October 7, 1987.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 87-24881 Filed 11-6-87; 8:45 am]

BILLING CODE 6705-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2640 and 2642

Allocating Unfunded Vested Benefits Following the Merger of Multiemployer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: The Pension Benefit Guaranty Corporation is proposing rules for determining the unfunded vested benefits allocable to an employer that withdraws from a multiemployer pension plan after the plan has merged with another plan. This action is needed to meet the requirement of the Employee Retirement Income Security Act that the PBGC prescribe rules governing this allocation. The effect of this regulation, when adopted, will be to provide guidance to multiemployer plans on how to allocate unfunded vested benefits following the merger of multiemployer plans.

DATES: Comments must be submitted on or before January 8, 1988.

ADDRESSES: Comments should be submitted to Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006. Written comments will be available for public inspection at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: John Carter Foster, Attorney, Regulations Division, Corporate Policy and Regulations Department, (35100), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; 202-778-8850 (202-778-8859 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

An employer that withdraws from a multiemployer pension plan is generally liable for a portion of the plan's unfunded vested benefits. The first step in computing this liability is to determine the employer's allocable share of the plan's unfunded vested benefits in accordance with section 4211 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA" or "the Act"). Section 4211 provides four alternative allocation methods for computing this share: The presumptive method, the modified presumptive method, the rolling-5 method, and the direct attribution method. Because these methods may be difficult to apply to employer withdrawals following a merger of multiemployer plans, paragraph (f) of section 4211 mandates that the Pension Benefit Guaranty Corporation ("the PBGC") prescribe rules for the allocation of unfunded vested benefits to employers that withdraw after a merger of multiemployer plans:

In the case of a withdrawal following a merger of multiemployer plans, (the allocation rules of section 4211) shall be applied in accordance with regulations prescribed by the corporation; except that, if a withdrawal occurs in the first plan year beginning after a merger of multiemployer plans, the determination (of the amount of unfunded vested benefits allocable to the

employer) shall be made as if each of the multiemployer plans had remained separate plans.

29 U.S.C 1391(f).

This notice of proposed rulemaking prescribes adjustments to the section 4211 allocation rules that the PBGC believes will provide a merged plan with adequate flexibility to adopt an allocation method well-suited to its particular facts and circumstances, while at the same time ensuring that the allocation method used by the merged plan is consistent with the underlying purposes of and the aggregate results achieved by the statutory allocation methods.

The Proposed Regulation—Overview

A merger of multiemployer plans may involve plans using different allocation methods and having significant differences in size of assets, liabilities and levels of funding. Merging plans may also have different plan establishment dates and plan years. Plan sponsors need flexibility to deal with these differences, not only to protect participants and beneficiaries from the effects of employer withdrawals, but also to provide equitable treatment to both the employers in the merging plans and the employers joining the plan after the merger. Some plans may want to insulate employers from the pre-merger liability of the other plan and to provide for the sharing among all employers only of post-merger liabilities. In other situations, plans may want to pool all liabilities and have each employer share in those liabilities.

The proposed regulation generally follows the first approach, while giving plans the option to adopt rules embodying the second approach. That is, the proposed regulation prescribes modifications to the statutory presumptive, modified presumptive and rolling-5 methods (§§ 2642.22, 2642.23 and 2642.24, respectively) under which an employer's liability for a withdrawal from a merged plan is comprised of its allocable share of its prior plan's unfunded vested benefits as of the end of the plan year preceding the merger plus its allocable share of the merged plan's unfunded vested benefits. (Since the statutory direct attribution method essentially achieves this same result, there are no modifications needed (§ 2642.25)). The proposed regulation (§ 2642.26) also permits plans to adopt, with the PBGC's approval, modifications of the allocation methods in §§ 2642.22–2642.24 that have the effect, among other things, of making all employers share both the pre-merger and post-merger liabilities.

Like the statutory allocation rules, the proposed regulation includes a presumptive allocation method (§ 2642.22). The PBGC anticipates that most plans will agree on a post-merger allocation method before effecting a merger, so that rules and data will be in place to enable the merged plan to assess liability expeditiously and to advise employers of the effect that the merger will have on their potential withdrawal liability. However, there may be situations in which plans do not agree on a method, or in which the method adopted is not approved by the PBGC. Absent a presumptive allocation method, in these situations there would be uncertainty and disputes over what method applies to post-merger withdrawals.

Finally, the proposed regulation addresses withdrawals that occur before the end of the first plan year beginning after the merger (§ 2642.27). It interprets the phrase in section 4211(f) "determined as if each plan had remained a separate plan" and prescribes how to compute liability for withdrawals that occur after the merger, but before the end of the first plan year beginning after the merger. Clarification of these issues is needed in order to provide guidance on the computation of liability for withdrawals just after the merger and also to establish the initial starting point for computing liability for later withdrawals.

Definitions

In order to shorten some of the more wordy and cumbersome phrases that would otherwise be repeated throughout this regulation, the PBGC is proposing to add some new terms to the existing definitions applicable to Part 2642 (29 CFR 2640.4). The most significant of these new terms is "initial plan year", which would be used in lieu of the statutory term "first plan year beginning after the merger". "Initial plan year" is defined as the first complete plan year of the merged plan.

Presumptive Method

Under the statutory presumptive method, a withdrawing employer's liability consists of three elements. The first element is the unfunded vested benefits under the plan for the last plan year ending before September 26, 1980 ("the plan's pre-1980 liability"). The second element is the change in unfunded vested benefits for each plan year ending on or after September 26, 1980, in which the employer was obligated to contribute under the plan. The third element is a share of the liabilities that become uncollectible in each of those plan years as a result of the insolvency of previously withdrawn employers or as a result of statutory provisions that relieve withdrawn employers of all or a portion of their withdrawal liability (e.g., the *deminimis* rule of section 4209).

The withdrawing employer's share of each element of liability is based on the proportion of its contributions to the plan to total plan contributions during the five plan years preceding the plan year in which the element arose. In determining the employer's share of the plan's pre-1980 liability, the plan's pre-1980 liability is multiplied by a fraction ("the pre-1980 fraction"), the numerator of which is the employer's total required contributions to the plan for the five plan years ending before September 26, 1980, and the denominator of which is the total contributions received from all employers for the same period (excluding contributions of employers that withdrew before September 26, 1980). The employer's shares of the annual change in unfunded vested benefits and of amounts that become uncollectible during plan years ending after September 26, 1980 are determined by a similar fraction using the contributions over a five-plan-year period ("the annual fraction").

Finally, the statutory presumptive method amortizes unfunded vested benefits over a 20-year period. Specifically, the balance in each element mentioned above is reduced by five percent of the original amount in each year following its initial accrual.

The proposed presumptive rule set forth in § 2642.22 parallels the statutory presumptive method. Under this rule, the amount of unfunded vested benefits allocable to an employer for a post-merger withdrawal is the sum of three elements: (1) The employer's share of liabilities as of the end of the initial plan year; (2) the employer's share of post-initial plan year liabilities; and (3) the employer's share of reallocated amounts (§ 2642.22(a)). Like the statutory presumptive method, each of these elements is amortized at a rate of five percent per year and the post-initial year liabilities are computed annually. Also like the statutory presumptive method, if the sum of these elements is a negative amount, the employer's allocable share is zero.

Under § 2642.22(b), the first element is computed as of the end of the initial plan year. Ignoring the five percent annual amortization, this element is comprised of two amounts: (1) The unfunded vested benefits that would have been allocable to the employer if the employer had withdrawn on the first day of the initial plan year; and (2) the

employer's share of the initial year unfunded vested benefits minus the sum of the former amounts for employers who had not withdrawn as of the end of the initial year ("the residual unfunded vested benefits"). The merged plan determines the first amount by simply using the prior plan's allocation method (§ 2642.22(b)(1)).

However, the second amount, the residual unfunded vested benefits, is slightly more difficult to determine since there is no contribution history from which to create a fraction for apportioning an employer's share of these liabilities. The PBGC believes that the most equitable way to apportion these liabilities is to use the same ratio as the employer's share of its prior plan's liabilities bears to the total liabilities of the merged plan. Thus, the employer's share of the residual unfunded vested benefits would equal that amount multiplied by a fraction, the numerator of which is the employer's allocable share of the unfunded vested benefits brought to the merged plan by its prior plan, and the denominator of which is the sum of the allocable shares of unfunded vested benefits as of the end of the prior plan year for all employers that had not withdrawn as of the end of the initial plan year (§ 2642.22(b)(2)).

The computation of the second element of liability, the annual changes, also parallels the statutory presumptive method, with two modifications. In general, the effect of § 2642.22(c) is to substitute the phrase, "the initial plan year," for the phrases "September 25, 1980," and "last plan year ending before September 26, 1980," throughout the statutory rules for computing annual change amounts. Specifically, the following substitutions are needed:

(1) In section 4211(b)(2)(A) of the Act, substitute, "the initial plan year", for "September 25, 1980";

(2) In subparagraph (I) of section 4211(b)(2)(B)(ii) of the Act, substitute, "the initial plan year", for, "the last plan year ending before September 26, 1980";

(3) In subparagraph (II) of section 4211(b)(2)(B)(ii) of the Act, substitute "the' initial plan year", for "September 25, 1980"; and

(4) In section 4211(b)(2)(D) of the Act, substitute, "the initial plan year", for "the last plan year ending before September 26, 1980".

As noted above, § 2642.22 (c) does contain two minor changes from the statutory rule. First, unlike under the statutory presumptive method, computation of the annual change amounts must separate out amounts attributable to outstanding claims for withdrawal liability that can reasonably be expected to be collected from employers that had withdrawn as of the end of the initial plan year. This adjustment is not needed under the statutory rule because no outstanding claims for withdrawal liability existed prior to September 26, 1980. Thus, § 2642.22(c)(1) provides that a plan's unfunded vested benefits as of the end of a plan year are reduced by "the value as of the end of such year of all outstanding claims for withdrawal liability that can reasonably be expected to be collected from employers that had withdrawn as of the end of the initial plan year." The inclusion of unfunded vested benefits that have already been allocated to withdrawn employers is thereby avoided.

The second minor change involves the fraction used for apportioning an employer's share of the annua1 changes. Under the statutory method, this fraction is based on a five-year contribution history of employers. Obviously, however, these data do not exist in the first years immediately following a merger. Therefore, the PBGC proposes in § 2642.22(c)(2) that the allocation of annual change amounts for the first four plan years after a merger be based on the last five complete plan years of the merged and prior plans. (This change also applies to the third e1ement, discussed below, because the same problem of an insufficient number of plan years to construct the statutory fraction arises there, as well.)

The third element of the statutory presumptive method and of the post-merger presumptive method of proposed § 2642.22 is an employer's share of the reallocated amounts. However, the definition of the reallocated amounts under the statutory rule (section 4211(b)(4)(B)) needs to be narrowed for the purposes of the regulation in order to reflect the modification discussed above in the computation of the annual change amounts. Specifically, under § 2642.22(d)(1) the reallocated amounts are limited to those amounts that arise in connection with withdrawals after the initial plan year.

An example illustrates why this limitation is needed. Suppose an employer withdrew before the initial plan year, and the merged plan carries the employer's obligation to pay withdrawal liability as an outstanding claim. In calculating the annual changes in unfunded vested benefits, the plan would reduce the initial and subsequent plan year unfunded vested benefits by the amount of the claim. If the employer then goes into bankruptcy without paying its withdrawal liability, its allocable share of the plan's unfunded vested benefits would re-enter subsequent computations in two places: In the annual change computation, where the claim would no longer be a reduction from the unfunded vested benefits; and in the computation of reallocated amounts, where it would be an uncollectible amount. To avoid this double-counting, the proposed rule limits the reallocation of unfunded vested benefits to those amounts that arise in connection with withdrawals after the end of the initial plan year.

Modified Presumptive Method

The first alternative allocation method prescribed in the proposed regulation (§ 2642.23) is similar to the statutorV modified presumptive method in section 4211(c)(2) of ERISA. Under the statutory modified presumptive method, liability is comprised of two elements. The first element, the pre-1980 liability, is the same as under the statutory presumptive method (although here it is amortized over 15, rather than 20, years) and is allocated to employers using the same pre-1980 fraction as under the presumptive method. The second element is the aggregate change in unfunded vested benefits from the date for determining the pre-1980 liability (the last day of the last plan year ending before September 26, 1980) to the end of the plan year preceding withdrawal, less outstanding claims for withdrawal liability that can reasonably be expected to be collected. The employer's share of this post-1980 liability is determined using a fraction ("the post-1980 fraction"), the numerator of which is the employer's total required contributions for the five plan years preceding the employer's withdrawal, and the denominator of which includes the contributions made by all employers for the same period (excluding the contributions of employers that withdrew during that period).

The principal differences in the regulation from the statutory modified presumptive method are that § 2642.23 uses the initial plan year in lieu of the last plan year ending prior to September 26, 1980 and separately allocates an employer's share of its prior plan's unfunded vested benefits in determining that employer's share of the initial plan year liabilities. Thus, the pre-1980 element of liability under this method is computed in the same way as the first element under the proposed presumptive method, discussed above. The only difference is that the balance is amortized over fifteen years, as in the statutory modified presumptive method (§ 2642.23(b)).

The second element of liability (§ 2642.23(c)), too, is very much like the

statutory modified presumptive method, except for the allocation fraction used. As discussed previously, with respect to the regulatory presumptive method, some adjustment must be made to the post-1980 fraction for the plan years immediately following a merger when the merged plan does not have a five-year contribution history. Therefore, § 2642.23(c)(2) of the regulation provides for the same sort of adjustment as under § 2642.22(c)(2), basing the allocation fraction on the contributions for the last five full plan years under the merged plan and, when necessary, the prior plans.

Rolling-5 Method

The second alternative allocation method in the proposed regulation (§ 2642.24) is, in essence, an amalgam of the statutory rolling-5 method in section 4211(c)(3) and the modified presumptive method in § 2642.23. Under the statutory rolling-5 method, a share of the plan's unfunded vested benefits as of the end of the plan year preceding a withdrawal is allocated to the employer using the same post-1980 fraction (*i.e.*, five-year contribution history) as under the statutory modified presumptive method. The plan's pre-1980 liabilities are not separately allocated to pre-1980 employers under this method.

Under proposed § 2642.24, liability would be based on the same two elements used in § 2642.23, pre-merger and post-merger unfunded vested benefits, and an employer's share of these amounts would be determined using the same allocation fractions. However, unlike under the proposed modified presumptive method, the first element of the liability (*i.e.*, liabilities as of the end of the initial plan year), as well as the second element, are amortized over five years, rather than fifteen years (§ 2642.24(b)).

Absent a plan amendment adopting another allocation method, this proposed alternative would serve as the presumptive method for computing withdrawal liability for plans, and their successors, described in section 404(c) of the Internal Revenue Code.

Direct Attribution Method

The remaining statutory alternative allocation method is the direct attribution method in section 4211(c)(4). Since this method bases liability, in part, on the unfunded vested benefits attributable to a withdrawing employer's employees, it will generally preserve pre-merger accrued liabilities without any adjustments. Therefore, the PBGC proposes no specific tailoring of this rule to fit the post-merger period. Under proposed § 2642.25, a plan may simply adopt the statutory direct attribution method.

Modifications to the Allocation Methods

In order to provide merged plans with the maximum flexibility to adopt allocation methods well suited to the facts and circumstances of a particular plan, the PBGC proposes to permit such plans to adopt any of the statutory allocation methods and the modifications thereto set forth in Subpart B of this part. Any such amendment must be made in accordance with the rules in Subpart B. In addition, the PBGC is proposing, in § 2642.26, other standard modifications to the allocation methods prescribed in §§ 2642.22 through 2642.24 that merged plans may also adopt without the PBGC's approval.

Under the first modification in proposed § 2642.26(b), a plan may choose to disregard employers' allocable shares of their prior plan's liabilities. A plan may, instead, restart all computations from the end of the initial plan year. The effect of this modification is that all employers in a merged plan share in both the pre- and post-merger liabilities. This modification can be used under the presumptive, modified presumptive and rolling-5 methods (§§ 2642.22 through 2642.24)).

Under § 2642.26(c) a plan using any of the allocation methods, other than the direct attribution method, may change the amortization schedules used under the method. To avoid restarting a twenty year amortization schedule, a plan using the presumptive method in § 2642.22 can replace, pursuant to paragraph (c)(1), the five percent annual amortization of initial liabilities with one that continues the amortization rate of the prior plans. Paragraph (c)(2) of § 2642.26 permits a plan using either the modified presumptive or rolling-5 method in § 2642.23 or § 2642.24 to adopt a amortization schedule faster than fifteen years (for plans using § 2642.23), or slower than five years (for plans using § 2642.24).

Paragraph (d) of § 2642.26 merely provides a plan sponsor with different methods of computing the allocation fraction for determining an employer's share of the initial liabilities, *i.e.*, the liability under § 2642.22(b), § 2642.23(b) or § 2642.24(b). These variations permit the use of contribution-based fractions, rather than fractions based on the employer's share of liability under the prior plan.

Withdrawals During the Initial Plan Year

Section 4211(f) shows a Congressional concern that a merger of multiemployer plans not drastically change the liability of an employer that withdraws a short time after the merger. Thus, section 4211(f) provides, in pertinent part:

> * * * if a withdrawal occurs in the first plan year beginning after a merger of multiemployer plans, the determination [of the amount of unfunded vested benefits allocable to the employer] shall be made as if each of the multiemployer plans had remained separate plans.

Therefore, proposed § 2642.27 provides that a merged plan shall allocate unfunded vested benefits to an employer withdrawing during the initial plan year using that employer's prior plan's allocation method.

Section 4211(f) does not, however, address the question of the date as of which the merged plan does this allocation. That is, if the prior plan's plan year did not end on the day preceding the first day of the initial plan year, then as of what date are the plan's unfunded vested benefits allocated to the employer that withdraws during the initial plan year? Requiring that this allocation be done as of the end of the prior plan's last plan year before the withdrawal could have the effect of requiring a merged plan to continue to maintain separate records for each of the prior plans for some period after the merger. While some plans may be willing to do this, the PBGC does not believe it should require all merged plans to incur this expense. Therefore, the PBGC proposes that when a withdrawal occurs after a merger, and before the end of the initial plan year, the plan sponsor shall use the allocation method of the withdrawing employer's prior plan and shall allocate that plan's unfunded vested benefits as if the day before the date of the merger were the end of the last plan year prior to the withdrawal. This rule will normally be less costly to implement, because the plan sponsor should have assembled data on the prior plans liabilities and assets as of that date in preparation for the merger. Moreover, this rule will result in like treatment of all employers that withdraw during the initial plan year, regardless of when they withdraw.

Section 4211(f) is silent as to the method of allocation when a withdrawal occurs after a merger but before "the first plan year beginning after the merger" (*i.e.*, the initial plan year). If, for example, two plans merge in the middle of what will be the merged plan's plan year, rather than at the start of the merged plan's plan year, a gap would exist between the date of merger and the beginning of the initial plan year. The PBGC finds no reason to treat withdrawals during this gap any differently than withdrawals occurring

during the initial plan year. Accordingly, § 2642.27 applies to withdrawals from the date of the merger until the end of the initial plan year.

The PBGC specifically invites suggestions from interested parties of other possible methods for dealing with withdrawals that occur before the end of the initial plan year.

Finally, a question may aise as to when the initial plan year begins when two plans having the same plan year merge effective on the first day of their plan years (*e.g.*, two calendar year plans merge effective January 1, 1988). Although not specifically mentioned in this proposed regulation, the PBGC believes that the initial plan year in this situation should begin on the date of the merger, the first day of the new plan year. This assumption is probably consistent with the plan sponsors' intentions and avoids having the merged plan subject to the special rule under proposed § 2642.27 for two years after the merger.

E.O. 12291 and the Regulatory Flexibility Act

The PBGC has determined that this proposed regulation is not a "major rule" for the purposes of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This conclusion is based on the fact that this regulation merely provides optional rules for allocating liabilities under merged multiemployer plans; plans are not prevented from adopting an allocation method that was permitted in the absence of this regulation. This regulation neither creates nor imposes new liabilities.

Under section 605(b) of the Regulatory Flexibility Act, the PBGC certifies that this proposed regulation will not have a significant economic impact on a substantial number of small entities. There will be no significant economic impact because small plans (traditionally viewed as plans with fewer that 100 participants) represent only 14% of all multiemployer plans covered by the PBGC (346 out of 2485) and less than .04% of all small plans (346 out of 84,288). Further, the number of plans actually involved in mergers is quite low (15 in FY 1986). For the above reasons, compliance with sections 603 and 604 of the Regulatory Flexibility Act is waived.

Comments

Interested parties are invited to submit comments on this proposed regulation. Comments should be addressed to: Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006. Written comments will be available for public inspection at the Corporate Communications and Public Affairs Department, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m. Each comment should include the name and address of the person submitting the comment, identify this proposed regulation, and give reasons for any recommendation. This proposal may be changed in light of the comments received.

List of Subjects in 29 CFR Parts 2640 and 2642

Employee benefit plans, Pensions, and Pension insurance.

In consideration of the foregoing, it is the hereby proposed to amend Subchapter F of Chapter XXVI of Title 29, Code of Federal Regulations, as follows:

PART 2640—[AMENDED]

1. The authority citation for Part 2640 is revised to read as follows:

Authority: 29 U.S.C. 1302(b)(3).

2. Section 2640.4 is revised to read as follows:

§ 2640.4 Allocating unfunded vested benefits.

For purposes of Part 2642—

"Initial plan year" means a merged plan's first complete plan year that begins after the establishment of the merged plan.

"Initial plan year unfunded vested benefits" means the unfunded vested benefits as of the close of the initial plan year, less the value as of the end of the initial plan year of all outstanding claims for withdrawal liability that can reasonably be expected to be collected from employers that had withdrawn as of the end of the initial plan year.

"Merged plan" means a plan that is the result of the merger of two or more multiemployer plans.

"Merger" means the combining of two or more multiemployer plans into one multiemployer plan.

"Post-1980 fraction" means the fraction described in section 4211 (c)(2)(C)(ii) or (c)(3)(B) of the Act.

"Pre-1980 fraction" means the fraction described in section 4211 (b)(3)(B) or (c)(2)(B)(ii) of the Act.

"Prior plan" means the plan in which an employer participated immediately before that plan became a part of the merged plan.

"Unfunded vested benefits" means an amount by which the value of nonforfeitable benefits under the plan exceeds the value of the assets of the plan.

"Withdrawing employer" means the employer for whom withdrawal liability is being calculated under section 4201 of the Act.

"Withdrawn employer" means an employer who, prior to the withdrawing employer, has discontinued contributions to the plan or covered operations under the plan and whose obligation to contribute has not been assumed by a successor employer within the meaning of section 4204 of the Act. A temporary suspension of contributions, including a suspension described in section 4218(2) of the Act, is not considered a discontinuance of contributions.

PART 2642—[AMENDED]

3. The authority citation for Part 2642 is revised to read as follows:

Authority: 29 U.S.C. 1302(b)(3), and 1391(c)(1), (c)(2)(D), (c)(5)(A), (c)(5)(B), (c)(5)(D), and (f) (1982 & Supp. III 1985).

4. Section 2642.1 is amended by revising paragraph (a) to read as follows:

§ 2642.1 Purpose and scope.

(a) *Purpose.* Section 4211 of the Act provides four methods for allocating unfunded vested benefits to employers that withdraw from a multiemployer plan: The presumptive method (section 4211(b)); the modified presumptive method (section 4211(c)(2)); the rolling-5 method (section 4211(c)(3)); and the direct attribution method (section 4211(c)(4)). With the minor exceptions covered in § 2642.2, a plan determines the amount of unfunded vested benefits allocable to a withdrawing employer in accordance with the presumptive method, unless the plan is amended to adopt an alternative allocation method. Generally, the PBGC must approve the adoption of an alternative allocation method. On September 25, 1984, 49 FR 37686, the PBGC granted a class approval of all plan amendments adopting one of the statutory alternative allocation methods. Subpart C of this regulation sets forth the criteria and procedures for PBGC approval of non-statutory alternative allocation methods. Section 4211(c)(5) of the Act also permits certain modifications to the statutory allocation methods. The PBGC

is to prescribe these modifications in a regulation, and plans may adopt them without PBGC approval. Subpart B of this regulation contains the permissible modifications to the statutory methods. Plans may adopt other modifications subject to PBGC approval under Subpart C. Finally, under section 4211(f) of the Act, the PBGC is required to prescribe rules governing the application of the statutory allocation methods or modified methods by plans following the merger of multiemployer plans. Subpart D sets forth alternative allocation methods to be used by merged plans. In addition, such plans may adopt any of the allocation methods or modifications described under Subparts B and C in accordance with the rules under Subparts B and C.

* * * * *

5. Part 2642 is amended by adding a new Subpart D to read as follows:

Subpart D—Allocation Methods for Merged Multiemployer Plans

Sec.

Subpart D—Allocation Methods for Merged Multiemployer Plans

§ 2642.21 Allocation of unfunded vested benefits following the merger of plans.

(a) *General rule.* Except as provided in paragraphs (b) through (d) of this section, when two or more multiemployer plans merge, the merged plan shall adopt one of the statutory allocation methods, in accordance with Subpart B of this part, or one of the allocation methods prescribed in §§ 2642.22 through 2642.25, and the method adopted shall apply to all employer withdrawals occurring after the initial plan year. Alternatively, a merged plan may adopt its own allocation method in accordance with Subpart C of this part. If a merged plan fails to adopt an allocation method pursuant to this subpart or Subpart B or C, it shall use the presumptive allocation method prescribed in § 2642.22. In addition, a merged plan may adopt any of the modifications prescribed in § 2642.26 or in Subpart B of this part.

(b) *Construction plans.* Except as provided in the next sentence, a merged plan that primarily covers employees in the building and construction industry shall use the presumptive allocation method prescribed in § 2642.22. However, the plan may, with respect to employers that are not construction industry employers within the meaning of section 4203(b)(1)(A) of the Act, adopt, by amendment, one of the alternative methods prescribed in §§ 2642.23 through 2642.25 or any other allocation method. Any such amendment shall be adopted in accordance with Subpart C of this part. A construction plan may, without the PBGC's approval, adopt by amendment any of the modifications set forth in § 2642.26 or any of the modifications to the statutory presumptive method set forth in § 2642.6.

(c) *Section 404(c) plans.* A merged plan that is a continuation of a plan described in section 404(c) of the Internal Revenue Code (a plan established before January 1, 1954, as a result of agreement between employee representatives and the United States during a period of government operation, under seizure powers, of a major part of the productive facilities of an industry) shall use the rolling-5 allocation method prescribed in § 2642.24, unless the plan, by amendment, adopts an alternative method. The plan may adopt one of the statutory allocation methods or one of the allocation methods set forth in §§ 2642.22 through 2642.25 without PBGC approval; adoption of any other allocation method is subject to PBGC approval under Subpart C of this part. The plan may, without the PBGC's approval, adopt by amendment any of the modifications set forth in § 2642.26 or in Subpart B of this part.

(d) *Withdrawals before the end of the initial plan year.* For employer withdrawals after the effective date of a merger and prior to the end of the initial plan year, the amount of unfunded vested benefits allocable to a withdrawing employer shall be determined in accordance with § 2642.27.

§ 2642.22 Presumptive method for withdrawals after the initial plan year.

(a) *General rule.* Under this section, the amount of unfunded vested benefits allocable to an employer that withdraws from a merged plan after the initial plan year is the sum (but not less than zero) of—

(1) The employer's proportional share, if any, of the unamortized amount of the plan's initial plan year unfunded vested benefits, as determined under paragraph (b) of this section;

(2) The employer's proportional share of the unamortized amount of the change in the plan's unfunded vested benefits for plan years ending after the initial plan year, as determined under paragraph (c) of this section; and

(3) The employer's proportional share of the unamortized amounts of the reallocated unfunded vested benefits (if any) as determined under paragraph (d) of this section.

(b) *Share of initial plan year unfunded vested benefits.* An employer's proportional share, if any, of the unamortized amount of the plan's initial plan year unfunded vested benefits is the sum of the employer's share of its prior plan's liabilities (determined under paragraph (b)(1) of this section) and the employer's share of the adjusted initial plan year unfunded vested benefits (determined under paragraph (b)(2) of this section), with such sum reduced by five percent of the original amount for each plan year subsequent to the initial plan year.

(1) *Share of prior plan liabilities.* An employer's share of its prior plan's liabilities is the amount of unfunded vested benefits that would have been allocable to the employer if it had withdrawn on the first day of the initial plan year, determined as if each plan had remained separate plans.

(2) *Share of adjusted initial plan year unfunded vested benefits.* An employer's share of the adjusted initial plan year unfunded vested benefits equals the plan's initial plan year unfunded vested benefits, less the amount that would be determined under paragraph (b)(1) of this section for each employer that had not withdrawn as of the end of the initial plan year, multiplied by a fraction—

(i) The numerator of which is the amount determined under paragraph (b)(1) of this section; and

(ii) The denominator of which is the sum of the amounts that would be determined under paragraph (b)(1) of this section for each employer that had not withdrawn as of the end of the initial plan year.

(c) *Share of annual changes.* An employer's proportional share of the unamortized amount of the change in the plan's unfunded vested benefits for the plan years ending after the end of the initial plan year is the sum of the employer's proportional shares (determined under paragraph (c)(2) of this section) of the unamortized amount of the change in unfunded vested benefits (determined under paragraph

(c)(1) of this section) for each plan year in which the employer has an obligation to contribute under the plan ending after the initial plan year and before the plan year in which the employer withdraws.

(1) *Change in plan's unfunded vested benefits.* The change in a plan's unfunded vested benefits for a plan year is the amount by which the unfunded vested benefits at the end of a plan year, less the value as of the end of such year of all outstanding claims for withdrawal liability that can reasonably be expected to be collected from employers that had withdrawn as of the end of the initial plan year, exceed the sum of the unamortized amount of the initial plan year unfunded vested benefits (determined under paragraph (c)(1)(i) of this section) and the unamortized amounts of the change in unfunded vested benefits for each plan year ending after the initial plan year and preceding the plan year for which the change is determined (determined under paragraph (c)(1)(ii) of this section).

(i) *Unamortized amount of initial plan year unfunded vested benefits.* The unamortized amount of the initial plan year unfunded vested benefits is the amount of those benefits reduced by five percent of the original amount for each succeeding plan year.

(ii) *Unamortized amount of the change.* The unamortized amount of the change in a plan's unfunded vested benefits with respect to a plan year is the change in unfunded vested benefits for the plan year, reduced by five percent of such change for each succeeding plan year.

(2) *Employer's proportional share.* An employer's proportional share of the amount determined under paragraph (c)(1) of this section is computed by multiplying that amount by a fraction—

(i) The numerator of which is the total amount required to be contributed under the plan (or under the employer's prior plan) by the employer for the plan year in which the change arose and the four preceding full plan years; and

(ii) The denominator of which is the total amount contributed under the plan (or under each employer's prior plan) for the plan year in which the change arose and the four preceding full plan years by all employers that had an obligation to contribute under the plan for the plan year in which such change arose, reduced by any amount contributed by an employer that withdrew from the plan in the year in which the change arose.

(d) *Share of reallocated amounts.* An employer's proportional share of the unamortized amounts of the reallocated unfunded vested benefits, if any, is the sum of the employer's proportional shares (determined under paragraph (d)(2) of this section) of the unamortized amount of the reallocated unfunded vested benefits (determined under paragraph (d)(1) of this section) for each plan year ending before the plan year in which the employer withdrew from the plan.

(1) *Unamortized amount of reallocated unfunded vested benefits.* The unamortized amount of the reallocated unfunded vested benefits with respect to a plan year is the sum of the amounts described in paragraphs (d)(1)(i), (d)(1)(ii), and (d)(1)(iii) of this section for the plan year, reduced by five percent of such sum for each succeeding plan year.

(i) *Uncollectible amounts.* Amounts included as reallocable under this paragraph are those that the plan sponsor determines in that plan year to be uncollectible for reasons arising out of cases or proceedings under Title 11, United States Code or similar proceedings, with respect to an employer that withdrew after the close of the initial plan year.

(ii) *Relief amounts.* Amounts included as reallocable under this paragraph are those that the plan sponsor determines in that plan year will not be assessed as a result of the operation of sections 4209, 4219(c)(1)(B), or 4225 of the Act with respect to an employer against which withdrawal liability has been assessed after the initial plan year.

(iii) *Other amounts.* Amounts included as reallocable under this paragraph are those that the plan sponsor determines in that plan year to be uncollectible or unassessable for other reasons under standards not inconsistent with regulations prescribed by the PBGC.

(2) *Employer's proportional share.* An employer's proportional share of the amount of the reallocated unfunded vested benefits with respect to a plan year is computed by multiplying the unamortized amount of the reallocated unfunded vested benefits (as of the end of the year preceding the plan year in which the employer withdraws) by the allocation fraction described in paragraph (c)(2) of this section for the same plan year.

§ 2642.23 Modified presumptive method for withdrawals after the initial plan year.

(a) *General rule.* Under this section, the amount of unfunded voted benefits allocable to an employer that withdraws from a merged plan after the initial plan year is the sum of the employer's proportional share, if any, of the unmortized amount of the plan's initial plan year unfunded vested benefits (determined under paragraph (b) of this section) and the employer's proportional share of the unamortized amount of the unfunded vested benefits arising after the initial plan year (determined under paragraph (c) of this section).

(b) *Share of initial plan year unfunded vested benefits.* An employer's proportional share, if any, of the unamortized amount of the plan's initial plan year unfunded vested benefits is the sum of the employer's share of its prior plan's liabilities, as determined under § 2642.22(b)(1), and the employer's share of the adjusted initial plan year unfunded vested benefits, as determined under § 2642.22(b)(2), with such sum reduced as if it were being fully amortized in level annual installments over fifteen years beginning with the first plan year after the initial plan year.

(c) *Share of unfunded vested benefits arising after the initial plan year.* An employer's proportional share of the amount of the plan's unfunded vested benefits arising after the initial plan year is the employer's proportional share (determined under paragraph (c)(2) of this section) of the plan's unfunded vested benefits as of the end of the plan year preceding the plan year in which the employer withdraws, reduced by the amount of the plan's unfunded vested benefits as of the close of the initial plan year, (determined under paragraph (c)(1) of this section).

(1) *Amount of unfunded vested benefits.* The plan's unfunded vested benefits as of the end of the plan year preceding the plan year in which the employer withdraws shall be reduced by the sum of—

(i) The value as of that date of all outstanding claims for withdrawal liability that can reasonably be expected to be collected, with respect to employers that withdrew before that plan year; and

(ii) The sum of the amounts that would be allocable under paragraph (b) of this section to all employers that have an obligation to contribute in the plan year preceding the plan year in which the employer withdraws and that also had an obligation to contribute in the first plan year ending after the initial plan year.

(2) *Employer's proportional share.* An employer's proportional share of the amount determined under paragraph (c)(1) of this section is computed by multiplying that amount by a fraction—

(i) The numerator of which is the total amount required to be contributed under the plan (or under the employer's prior plan) by the employer for the last five full plan years ending before the date on which the employer withdraws; and

(ii) The denominator of which is the total amount contributed under the plan (or under each employer's prior plan) by all employers for the last five full plan years ending before the date on which the employer withdraws, increased by the amount of any employer contributions owed with respect to earlier periods that were collected in those plan years, and decreased by any amount contributed by an employer that withdrew from the plan (or prior plan) during those plan years.

§ 2642.24 Rolling-5 method for withdrawals after the initial plan year.

(a) *General rule.* Under this section, the amount of unfunded vested benefits allocable to an employer that withdraws from a merged plan after the initial plan year is the sum of the employer's proportional share, if any, of the unamortized amount of the plan's initial plan year unfunded vested benefits (determined under paragraph (b) of this section) and the employer's proportional share of the unamortized amount of the unfunded vested benefits arising after the initial plan year (determined under paragraph (c) of this section).

(b) *Share of initial plan year unfunded vested benefits.* An employer's proportional share, if any, of the unamortized amount of the plan's initial plan year unfunded vested benefits is the sum of the employer's share of its prior plan's liabilities, as determined under § 2642.22(b)(1), and the employer's share of the adjusted initial plan year unfunded vested benefits, as determined under § 2642.22(b)(2), with such sum reduced as if it were being fully amortized in level annual installments over five years beginning with the first plan year after the initial plan year.

(c) *Share of unfunded vested benefits arising after the initial plan year.* An employer's proportional share of the amount of the plan's unfunded vested benefits arising after the initial plan year is the employer's proportional share determined under § 2642.23(c).

§ 2642.25 Direct attribution method for withdrawals after the initial plan year.

The allocation method under this section is the allocation method described in section 4211(c)(4) of the Act.

§ 2642.26 Modifications to the determination of initial liabilities, the amortization of initial liabilities, and the allocation fraction.

(a) *General rule.* A plan using any of the allocation methods described in §§ 2642.22 through 2542.24 may, by plan amendment and without PBGC approval, adopt any of the modifications described in this section.

(b) *Restarting initial liabilities.* A plan may be amended to allocate the initial plan year unfunded vested benefits under § 2642.22(b), § 2642.23(b), or § 2642.24(b) without separately allocating to employers the liabilities attributable to their participation under their prior plans. An amendment under this paragraph must include an allocation fraction under paragraph (d) of this section for determining the employer's proportional share of the total unfunded benefits as of the close of the initial plan year.

(c) *Amortizing initial liabilities.* A plan may by amendment modify the amortization of initial liabilities in either of the following ways:

(1) If two or more plans that use the presumptive allocation method of section 4211(b) of the Act merge, the merged plan may adjust the amortization of initial liabilities under § 2642.22(b) to amortize those unfunded vested benefits over the remaining length of the prior plans' amortization schedules.

(2) A plan that has adopted the allocation method under § 2642.23 or § 2642.24 may adjust the amortization of initial liabilities under § 2642.23(b) or § 2642.24(b) to amortize those unfunded vested benefits in level annual installments over any period of at least five and not more than fifteen years.

(d) *Changing the allocation fraction.* A plan may by amendment replace the allocation fraction under § 2642.22(b), § 2642.23(b), or § 2642.24(b) with any of the following contribution-based fractions—

(1) A fraction, the numerator of which is the total amount required to be contributed under the merged and prior plans by the withdrawing employer in the 60-month period ending on the last day of the initial plan year, and the denominator of which is the sum for that period of the contributions made by all employers that had not withdrawn as of the end of the initial plan year;

(2) A fraction, the numerator of which is the total amount required to be contributed by the withdrawing employer for the initial plan year and the four preceding full plan years of its prior plan, and the denominator of which is the sum of all contributions made over that period by employers that had not withdrawn as of the end of the initial plan year; or

(3) A fraction, the numerator of which is the total amount required to be contributed to the plan by the withdrawing employer since the effective date of the merger, and the denominator of which is the sum of all contributions made over that period by employers that had not withdrawn as of the end of the initial plan year.

§ 2642.27 Allocating unfunded vested benefits for withdrawals before the end of the initial plan year.

If an employer withdraws after the effective date of a merger and before the end of the initial plan year, the amount of unfunded vested benefits allocable to the employer shall be determined as if each of the plans had remained separate plans. In making this determination, the plan sponsor shall use the allocation method of the withdrawing employer's prior plan and shall compute the employer's allocable share of that plans's unfunded vested benefits as if the day before the effective date of the merger were the end of the last plan year prior to the withdrawal.

Issued at Washington, DC, on this 30th day of October 1987

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 87-25686 Filed 11-6-87: 8:45 am]

BILLING CODE 7708-01-M

POSTAL SERVICE

39 CFR Part 111

Carrier Route Presort Information Mandatory Updates

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This rule proposes to change the frequency of required updating of address information for mailing at carrier route presort rates from two times a year to four times a year. The purpose of this change is to lessen the use of incorrect addresses which cause costly extra handlings of the mail.

DATES: Comments must be received on or before December 9, 1987.

ADDRESS: Written comments should be directed to Paul Bakshi, Office of Address Information Systems, Delivery Services Department, U.S. Postal Service Headquarters, 475 L'Enfant Plaza West, SW., Washington, DC 20260-7230.

Copies of all written comments will be available for inspection and photocopying between 9:00 a.m. and 4:00 p.m. Monday through Friday, in the Office of Address Information Systems, Delivery Services Department, Room 7417, U.S. Postal Service Headquarters, 475 L'Enfant Plaza West, SW., Washington, DC 20260-7230.

FOR FURTHER INFORMATION CONTACT: Paul Bakshi, (202) 268-3520.

SUPPLEMENTARY INFORMATION: From the inception of the carrier route presort program in 1979, mailers choosing to mail at reduced carrier route rates have been required to obtain and use semiannual updates of the carrier route addressing information contained in the Postal Service's Carrier Route Information System (CRIS). These updates are produced on February 15 and July 15 each year. Mailers are given two and one-half months to update their lists. Use of this CRIS updated information is mandatory on May 1, and October 1 respectively.

PRESENT SEMIANNUAL UPDATE SCHEDULES

Issuance date	Mandatory use date	Period covered
February 15	May 1	February 15 to September 30 (7½ months.)
July 15	October 1	July 15 to April 30 (10½ months.)

In addition to the semiannual updates, monthly change information is also available to mailers. The use of monthly change information is not mandatory and only a limited number of customers currently have chosen to receive monthly change information.

Of the approximately 3.2 million records in the CRIS file, over a million were updated in 1986. This translates to about 100,000 changes per month to the CRIS file. Due to this dynamic nature of the information in the CRIS file, the Postal Service has concluded that the period covered by each mandatory update is too long. Because the February 15 CRIS issuance covers 7½ months and July 15 covers 10½ months, mailers are using outdated information for long periods. This use is a major contributor to the incorrectly prepared carrier route present volume. Incorrectly prepared mail pieces require rehandling which is costly to the Postal Service and liable to be reflected in future carrier route presort rates. Increasing the frequency of CRIS mandatory updates and their use by the mailers is expected to sharply decrease the CRIS rehandling volume.

The Postal Service and the mailing industry have been working together to determine the optimum number of mandatory CRIS updates. After polling its members, the Mailer's Technical Advisory Committee (MTAC) has recommended that the Postal Service increase the mandatory updates frequency to four times per year. The Postal Service has decided to endorse this recommendation.

Because each increase in the frequency of updates is expected to increase mailers' processing costs, the Postal Service believes that updates more frequently than quarterly are not appropriate at this time.

Based on the use of more frequently updated CRIS scheme information, mailers are expected to realize the following benefits:

—Qualify more mail volume for presort discounts based on the use of new street information
—Enhance timeliness of delivery based on the use of up-to-date carrier route numbers and 5-digit ZIP codes for addresses which have changed
—More stable rates because of less rehandling volume

The following chart lists the proposed CRIS update issuance dates, mandatory use dates and the period covered by each update.

PROPOSED QUARTERLY UPDATE SCHEDULE

Issuance date	Mandatory use date	Period covered
January 15	April 1	January 15 to June 30 (5½ months.)
April 15	July 1	April 15 to September 30 (5½ months.)
July 15	October 1	July 15 to December 31 (5½ months.)
October 15	January 1	October 15 to March 31 (5½ months.)

The implementation of the revised schedule will not begin before January 1988.

Accordingly, this proposal amends Domestic Mail Manual, section 323.2 (First-Class Mail), 468.2b(1) (Second-Class Mail), 622.11e(1) (Third-Class Mail) and 763.21 (Bound Printed Matter) to specify the new mandatory update schedule. Sections 622.11e(2) and 763.22 are also amended to make conforming changes.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed amendments to the Domestic Mail Manual, which is incorporated by reference in the code of Federal Regulations. See 39 CFR 111.1. List of subjects in 39 CFR Part 111 Postal Service.

PART 111—[AMENDED]

1. The authority citation in 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a): 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

PART 323—PRESORTED FIRST-CLASS MAIL

2. In 323.2 revise the sixth sentence to read as follows: "Mailers must incorporate CRIS changes in their mailings within 75 days of the effective date (January 15, April 15, July 15 and October 15) of the quarterly updates."

PART 468—SPECIAL PREPARATION REQUIREMENTS OR OPTIONS FOR PRESORT-LEVEL DISCOUNT-RATED PIECES (LEVELS B, C, H, I AND K)

3. In 468.2 revise the first two sentences of b.(1) to read as follows: "Mailers are responsible for makeup of mail to carrier routes according to the latest quarterly Postal Service scheme. Mailers must incorporate Carrier Route Information System (CRIS) changes in their mailings within 75 days of the effective date (January 15, April 15, July 15 and October 15) of the quarterly updates."

PART 622—THIRD-CLASS BULK MAIL

4. In 622.11e(1), revise the first two sentences to read as follows: "Mailers are responsible for the proper makeup of mail to carrier routes according to the latest quarterly Postal Service scheme. Mailers must incorporate Carrier Route Information System (CRIS) changes in their mailings within 75 days of the effective date (January 15, April 15, July 15 and October 15) of the quarterly updates."

5. In 622.11e(2)(b), in the heading change the word "Semiannual" to "Quarterly"; in the last sentence change the word "semiannual: To "quarterly"; and revise the second sentence to read as follows: "Hard-copy form is not available from the Postal Service on a regional, state or national basis."

6. In 622.11e(2)(c), in the heading change the word "Semiannual" to "Quarterly"; and in the last sentence change the word "semiannual" to "quarterly".

7. Revise 622.11e(2)(d) to read as follows:

(d) *CRIS Quarterly Updates and Monthly Scheme Tape Changes.* CRIS scheme information in machine-sensible form on magnetic tapes is available for one more states or for the entire United States. There are also monthly updates available on tape.

8. In 622.11e(2)(e), delete the words "except July".

9. In the Note following 622.11e(2)(e), revise the introductory sentence to read as follows: "Note: In any CRIS scheme tape request, the mailer must specify which of the following magnetic tape characteristics are required:", and delete the characteristic in the Note labeled "(iv)".

PART 763—CARRIER ROUTE BOUND PRINTED MATTER

10. Revise 763.2 to read as follows:

763.2 Current Scheme

.21 Proper Makeup. See 622.11e(1).

.22 Obtaining Schemes. See 622.11e(2).

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

Fred Eggleston,

Assistant General Counsel, Legislative Division, Law Department.

[FR Doc. 87-25893 Filed 11-6-87; 8:45 am]

BILLING CODE 7710-12-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-478, RM-6019]

Television Broadcasting Services; Roseburg, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by KMTR, Inc., licensee of Station KMTR-TV, Channel 16, Eugene, Oregon, requesting the allocation of TV Channel 36 to Roseburg, Oregon, as the community's second television allotment. Channel 36 can be allocated to Roseburg in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. However, should the Commission ultimately decide that the channel allotment would be in the public interest, the filing of construction permit applications may be delayed pursuant to the *Order* in RM-5811 instituting a freeze on the filing of such applications for any vacant channel within 175 miles of Portland, Oregon. Roseburg is located 164 miles south of Portland. Therefore, if petitioner expresses an intent to specify a site at least 11 miles south of Roseburg, this allotment may not be affected by the freeze on applications in the Portland area.

DATES: Comments must be filed on or before December 24, 1987, and reply comments on or before January 8, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John Crigler, Haley, Bader & Potts, 2000 M Street, NW., Suite 600, Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-478, adopted October 7, 1987, and released November 2, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time of a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration of court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocation Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-25820 Filed 11-6-87; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1312

[No. 37321 (Sub-No. 2)]

Revision of Tariff Regulations; Computer Determination of Mileages

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rule.

SUMMARY: In an earlier proceeding, No. 37321 (Sub-No. 1), published at 52 FR 39536, the Commission adopted a revised rule which allowed motor common carriers to file electronic distance determination systems. In that proceeding a railroad expressed an interest in filing such a system and, therefore, the Commission is proposing to further amend 49 CFR Part 1312 to allow all carriers to file electronic distance determination systems in lieu of printed distance guides. The rule revision will allow for the filing of computer programs that provide distances to be used in connection with carriers' tariffs of mileage rates. The Commission has found that the revision would insure that all tariff users would have the right to access or retrieve information as filed, thus satisfying the requirements of 49 U.S.C. 10761 and 10762.

DATE: The comments are due by December 9, 1987.

ADDRESS: An original and fifteen copies of comments should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Lawrence C. Herzig (202) 275-6887 or Charles Langyher (202) 275-7739. (TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy, write to Office of the Secretary, Rm. 2215, Interstate Commerce Commission Bldg., Washington, DC 20423, or call (202) 275-7428 (assistance for the hearing impaired is available through TDD services (202-275-1721) or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters.

List of Subjects in 49 CFR Part 1312

Motor carriers, Railroads.

This action will not significantly affect the quality of the human environment or energy conservation.

Decided: November 2, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre and Simmons.

Noreta R. McGee,

Secretary.

Title 49 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1312—REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS, SCHEDULES AND RELATED DOCUMENTS

1. The authority citation for 49 CFR Part 1312 would continue to read as follows:

Authority: 49 U.S.C. 10321 and 10762; 5 U.S.C. 553.

2. Section 1312.30 is proposed to be amended by revising paragraph (c)(5) to read as follows:

§ 1312.30 Distance rates.

* * * * *

(c) * * *

(5) Distance guides shall provide distance tables or combinations of tables and maps. Tables shall provide specific distances between a substantial number of the points and be shown as having precedence over the distances determined by the use of maps. Each guide shall provide rules stating its application. The rules shall include a means for determining distances between all locations within the territorial coverage of the guide, regardless of whether all the locations are shown in the guide or whether distances are shown between all locations. If distances between certain points or areas are to be determined only through a certain gateway or intercharge point, those points or areas and the gateway or interchange point shall be identified. Distance guides filed in "paper" format may exceed the maximum size limitations imposed by § 1312.3 but may not exceed 14½ by 17½ inches in size. Carriers may file automated distance determination systems which are linked by reference in abbreviated distance guides or rate tariffs to computer stored information provided the following conditions are met:

(i) Carriers or their tariff publishing agents shall make arrangements with the Commission for the receipt, storage and use of the systems through existing Commission technology and facilities.

(ii) In the event that a system is not compatible with Commission technology, the necessary implementing equipment and programs shall be placed on file with the Commission for use by Commission personnel and the public at no cost.

(iii) Proposed changes in the systems shall be given notice and reflect the nature of the change, as required by 49 U.S.C. 10762(c)(3) and § 1312.4(e) and § 1312.17(f). However, if an electronic distance determination system is not inherently capable of giving notice and symbolization of changes within the program, then printed tariff amendments to the distance guides or rate tariffs will be required. The amendments shall show the currently effective provisions as well as the proposed changes thereto.

(iv) The distance guides or rate tariffs shall provide all the information necessary to access and utilize the systems.

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[FR Doc. 87-25858 Filed 11-6-87; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 52, No. 216
Monday, November 9, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Public Meeting; Committee on Adjudication

ACTION: Committee on Adjudication; notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Adjudication of the Administrative Conference of the United States. The committee has scheduled this meeting to discuss draft recommendations on The Social Security disability appeals process, based upon two studies conducted for the Conferences. The studies are by Professor Allen Shoenberger on state-level initial determinations and reconsiderations, and by Professors Charles Koch and David Koplow on the role of the Social Security Appeals Council. The draft recommendations are published at 52 FR 41306 (October 27, 1987). Comments are requested by November 13, 1987. Copies of the consultants' reports may be obtained form the contact person named in this notice.

Date: Thursday, November 19, 1987 at 1 p.m.

Location: Administrative Conference of the United States, 2120 L street NW., Suite 500, Washington, DC 20037.

Public Participation: Committee meetings are open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meeting. The committee chairman may permit members of the public to present oral statement at the meetings. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

For Further Information Contact: Deborah Ross, Staff Attorney, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., SUITE 500, Washington, DC 20037. Telephone: (202) 254–7020.

Jeffrey S. Lubbers,

Research Director.

November 4, 1987.

[FR Doc. 87–25932 Filed 11–6–87; 8:45 am]

BILLING CODE 6110–01–M

Public Meeting; Committee on Administration

ACTION: Committee on Administration: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Administration of the Administrative Conference of the United States. The Committee has scheduled this meeting to discuss (1) A draft report by Eldon Crowell and Charles Pou on governemnt contract dispute resolution and draft recommendations on potential uses of ADR for government contract disputes, (2) draft recommendations on offset disputes under the Debt Collection Act; and (3) other business pending before the Committee. The draft recommendations are published at 52 FR 41998 (November 2, 1987). Copies of the consultants' reports may be obtained from the contact person named in this notice.

Date: Wednesday, November 25, 1987 at 9:30 a.m..

Location: Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington DC 20037.

Public Participation: Committee meetings are open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meeting. The Committee chairman may permit members of the public to present oral statements at the meetings. Any member of the public may file a written statement with the Committee before, during, or after the meeting. Minutes of the meeting will be available on request.

FOR FURTHER INFORMATION CONTACT: Charles Pou, Jr., Staff Attorney, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

Jeffrey S. Lubbers,

Research Director.

November 5, 1987.

[FR Doc. 87–26001 Filed 11–6–87; 8:45 am]

BILLING CODE 6110–01–M

Rulemaking Committee; Change; Date of Public Meeting

ACTION: Committee on Rulemaking; Notice of Change of Public Meeting Date.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a change of meeting date of the Committee on Rulemaking of the Administrative Conference of the United States. The committee was scheduled to meet on Friday, November 13, 1987 at 9:30 a.m. to continue its discussion of a proposed recommendation on OSHA regulation (see 52 FR 38492, October 16, 1987). Due to unforseen conflicts, the meeting is rescheduled as follows:

DATE: Monday, November 16, 1987, at 9:30 a.m.

LOCATION: Library of the Administrative Conference, 2120 L Street, NW., Suite 500, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Michael W. Bowers, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037. Telephone: (202) 254–7065.

Dated: November 5, 1987.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 87–25945 Filed 11–6–87; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

National Advisory Committee on Futures and Options Trading; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Advisory Committee on Futures and Options Trading will be held on November 23,

1987, from 2:00 p.m.–5:00 p.m. in room 5066–S of the Department of Agriculture South Building, 14th Street and Independence Avenue SW., Washington, DC 20250 and on November 24, 1987, from 8:00 a.m.–3:00 p.m. in room 104–A of the Department of Agriculture Administration Building, 12th Street and Jefferson Drive, SW., Washington, DC 20250.

This meeting will be open to the public on November 23, 1987, from 2:00 p.m.–5:00 p.m. and on November 24, 1987, from 8:00 a.m.–3:00 p.m. Members of the public may participate as time permits and file statements with the Committee before or after the meeting. Discussion will focus on the formulation of a pilot program under which producers in at least 40 counties may elect to participate in the trading of feed grains, wheat, soybeans, and cotton on a futures market or options market in a manner designed to protect and maximize the return on agricultural commodities of their own production. Actual county designation for pilot program participation will be the first item addressed, followed by discussion on pilot program operating procedures.

Questions regarding further information with reference to this meeting or the filing of public statements should be directed to Dr. William C. Bailey, Pilot Program Executive Secretary, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013, or call 202/447–7583.

Date: November 3, 1987.

Milton Hertz,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 87–25855 Filed 11–6–87; 8:45 am]

BILLING CODE 3410–05–M

Forest Service

Availability; Columbia River Gorge National Scenic Area, White Salmon and Klickitat Wild and Scenic River Corridor Boundaries, Klickitat County, WA

The Columbia River Gorge National Scenic Area Act of November 17, 1986, designated the Lower White Salmon River, Washington, as a National Scenic River and the Lower Klickitat River, Washington, as a National Recreation River, both to be administered by the Secretary of Agriculture. The USDA Forest Service has delineated river corridor boundaries for the White Salmon and the Klickitat Rivers as required by the Wild and Scenic Rivers Act, as amended. Detailed boundaries establish the areas that will be addressed in Wild and Scenic River Management Plans for these rivers.

River boundaries have been prepared and are available for review after November 17, 1987, at the following offices: USDA Forest Service, Recreation, South Building, 12th and Independence Avenue SW., Washington, DC 20250; Pacific Northwest Regional Office, 319 SW. Pine, Portland, OR 97208; Columbia River Gorge National Scenic Area, 902 Wasco Avenue, Sutie 200, Hood River, Oregon 97031; Gifford Pinchot National Forest, 500 W. 12th Street, Vancouver, Washington 98660; and the Mt. Adams Ranger District, Trout Lake, Washington 98650.

Additional information may be obtained by contacting Katherine Jesch, Scenic Area Planner, 902 Wasco Avenue, Hood River, Oregon 97031, telephone (503) 386–2333.

Arthur W. DuFault,

National Scenic Area Manager.

[FR Doc. 87–25880 Filed 11–6–87; 8:45 am]

BILLING CODE 3410–11–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of ATBCB meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting to be held from 10:00 to 1:00, on Wednesday, November 18, 1987, to take place in Department of Transportation (DOT) Conference Room 2230, 400 Seventh Street, SW., Washington, DC.

Items on the Agenda: U.S. Postal Service Presentation; Status Report on U.S. Postal Service Negotiations; Briefing on the Veterans Administration management study; Personnel Allocation; Funding Priorities for FY 1989; Reports to Congress; and Briefing on Status of Disabled in Action Litigation. The meeting will go into closed session for Board members only upon completion of the above agenda items.

DATE: Wednesday, November 18, 1987–10:00 am–1:00 pm.

ADDRESS: Department of Transportation Conference Room 2230, 400 Seventh Street SW., Washington, DC.

Committees of the ATBCB will meet on Monday and Tuesday, November 16 and 17, 1987, also in DOT Conference Room 2230, 400 Seventh Street SW.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Communications Manager, (202) 245–1591 (voice or TDD).

Margaret Milner,

Executive Director.

[FR Doc. 87–25882 Filed 11–6–87; 8:45 am]

BILLING CODE 6820–BP–M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1987 Census of Agriculture—Nonrespondent Sample Survey
Form Number: Agency—87–A–46; OMB—NA
Type of Request: New collection
Burden: 20,000 respondents; 4,000 reporting hours
Needs and Uses: This nonrespondent sample survey will be used to provide state estimates of the number of farms included in the mail list nonresponse universe for the 1987 Census of Agriculture. The estimate will be used to account for census nonrespondent farm operations in State and county statistics
Affected Public: Individuals or households and farms
Frequency: One time
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395–7340

Agency: Bureau of the Census
Title: 1987 Census of Agriculture—Coverage Evaluation
Form Number: Agency—87–A90; OMB—NA
Type of Request: New collection
Burden: 14,000 respondents; 5,840 reporting hours
Needs and Uses: This coverage evaluation program provides an independent check on census results, as well as pertinent information for census data users on coverage of the census and data limitations. The coverage evaluation program aids the Census Bureau in identifying procedures associated with coverage errors that can provide the basis for improvements in the census mail data collection and processing
Affected Public: Individuals or households and farms

Frequency: One time
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395–7340

Agency: Bureau of the Census
Title: Apparel Surveys
Form Number: Agency—MA–23E, MA–23F, MA–23G, and MA–23H; OMB—NA
Type of Request: New collection
Burden: 3,857 respondents; 5,784 reporting hours
Needs and Uses: These surveys are needed to provide the U.S. Government with current apparel production data. These data are used to monitor the effect of imports on the domestic apparel production industry. The users of these data will by Government agencies, business firms, trade associations, and research consulting organizations
Affected Public: Business or for-profit institutions
Frequency: Annually
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395–7340

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Francine Picoult, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: November 3, 1987.

Edward Michals,

Department Clearance Officer, Office of Management and Organization.

[FR Doc. 87–25839 Filed 11–6–87; 8:45 am]

BILLING CODE 3510–07–M

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Carpets and Rugs
Form Number: Agency—MQ–22Q; OMB—0607–0559
Type of Request: Reinstatement of a previously approved collection
Burden: 70 respondents; 140 reporting hours
Needs and Uses: This survey is conducted to provide the U.S. Government with information on domestic output in the textile industry. The data is used to monitor trade agreements with foreign countries
Affected Public: Businesses or other for-profit institutions
Frequency: Quarterly
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395–7340

Agency: Bureau of the Census
Title: Broadwoven Fabrics (Gray)
Form Number: Agency—MQ–22T; OMB—NA
Type of Request: Reinstatement of a previously approved collection
Burden: 431 respondents; 1,724 reporting hours
Needs and Uses: This survey is conducted to provided the U.S. Government with information on the domestic production of broadwoven fabrics. The data is used to monitor textile agreements with foreign countries
Affected Public: Businesses or other for-profit institutions
Frequency: Quarterly
Respondent's Obligation: Mandatory
OMB Desk Officer: Francine Picoult, 395–7340

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Francine Picoult, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: November 3, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87–25840 Filed 11–6–87; 8:45 am]

BILLING CODE 3510–07–M

Bureau of the Census

Annual Wholesale Trade; Determination

In accordance with Title 13, United States Code, sections 131, 182, 224, and 225, I have determined the Census Bureau needs to collect data covering year-end inventories, annual sales, and purchases to provide a sound statistical basis for the formation of policy by various governmental agencies. These data also apply to a variety of public and business needs. This annual survey is a continuation of similar wholesale trade surveys conducted each year since 1978. It provides on a comparable classification basis annual sales and purchases for 1987 and inventories for 1986 and 1987. These data are not available publicly on a timely basis from nongovernmental or other governmental sources.

The Census Bureau will require selected firms operating merchant wholesale establishments in the United States (with sales size determining the probability of selection) to report in the 1987 Annual Wholesale Trade Survey. We will furnish report forms to the firms covered by this survey and will require their submission within 20 days after receipt. The sample will provide, with measurable reliability, statistics on the subjects specified above.

We will provide copies of the forms upon written request to the Director, Bureau of the Census, Washington, DC 20233.

I have directed, therefore, that an annual survey be conducted for the purpose of collecting these data.

Dated: November 3, 1987.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 87–25886 Filed 11–6–87; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with § 353.53a or § 355.10 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review

Not later than December 31, 1987, interested parties may request

administrative review of the following orders, findings, or suspended investigations, with anniversary dates in December for the following periods:

	Period
Antidumping Duty Proceeding:	
Drycleaning Machinery from the Federal Republic of Germany	11/01/86–10/31/87
Barbed Wire & Barbless Fencing from Argentina	11/01/86–10/31/87
Rectangular Pipes & Tubes from Singapore	11/13/86–10/31/87
Choline Chloride from Canada	11/01/86–10/31/87
Bicycle Speedometers from Japan	11/01/86–10/31/87
Carbon Steel Wire Rods from Argentina	11/01/86–10/31/87
Titanium Sponge from Japan	11/01/86–10/31/87
Countervailing Duty Proceeding:	
Oil Country Tubular Goods from Argentina	01/01/86–12/31/86
Deformed Steel Concrete Reinforcing Bars from Peru	01/01/86–12/31/86
Certain Textiles and Textile Products from Agrentina	01/01/86–12/31/86
Suspended Investigation:	
Certain Small Motors from Japan	11/01/86–10/31/87
Certain Refrigeration Compressors from the Republic of Singapore	01/01/86–12/31/86
Sodium Gluconate from the European Community	01/01/86–12/31/86

Seven copies of the request should be submitted to the Acting Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, Washington, DC 20230.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review," for requests received by December 31, 1987.

If the Department does not receive by December 31, 1987, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Dated: October 29, 1987.

[FR Doc. 87–25906 Filed 11–6–87; 8:45 am]

BILLING CODE 3510–DS–M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Issuance of an Export Trade Certificate of Review, Application #87–00011.

SUMMARY: The Department of Commerce has issued an export trade certificate of review to Calcined Petroleum Coke, Inc. ("CPC"). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: John E. Stiner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202–377–5131. This is not a toll-free number

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97–290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a certificate in the **Federal Register.** Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

Calcined petroleum coke.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

To engage in Export Trade in the Export Markets, CPC is certified to:

1. Negotiate and enter into agreements with any or all U.S. producers of calcined petroleum coke to be their exclusive export sales agent whereby:

(a) CPC will serve as each producer's exclusive export sales agent for an initial period of two years, subject thereafter to renewal annually by mutual agreement;

(b) CPC will purchase calined petroleum coke as principal from each producer for resale in the Export Markets. CPC shall negotiate the quantity and price for CPC's purchase with each producer individually and independently of CPC's negotiations or agreements with any other producer;

(c) Each producer will agree to not export, either directly or through any other export sales agent, and to not sell for export any calcined petroleum coke other than that which CPC purchases;

(d) As consideration for the producer's agreement not to export or sell for export calcined petroleum coke except through CPC, CPC will pay each producer, for the initial two-year contract period only, an amount based on the producer's capacity to export calcined petroleum coke in excess of CPC's export requirements. The capacity to export will be calculated solely from historical data published by the Department of Commerce that exists as of the date of this certificate. CPC will negotiate the amount of this payment, which shall remain fixed for the period of the contract, with each producer individually and independently of CPC's negotiations or agreements with any other producer, and the producer shall retain absolute discretion to produce calcined petroleum coke for domestic sales.

2. Set prices and other terms for export sales of, and sell in the Export Markets, the calcined petroleum coke purchased from U.S. producers.

3. Negotiate on its own behalf with carriers and conference lines for the most advantageous rates for the shipment to the Export Markets of the calcined petroleum coke purchased from U.S. producers.

A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Date: November 5, 1987.

John E. Stiner,

Director, Office of Export Trading Company Affairs.

[FR Doc. 87–25825 Filed 11–6–87; 8:45 am]

BILLING CODE 3510–DR–M

Short-Supply Review on Certain Steel Plate; Request for Comments

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of request for comments.

SUMMARY: The Department of Commerce hereby announces its review

of a request for a short-supply determination under Article 8 of the U.S.–EC Arrangement on Certain Steel Products, with respect to certain abrasion-resistant steel plate.

DATE: Comments must be submitted on or before November 19, 1987.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 377–0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.–EC Arrangement on Certain Steel provides that if the U.S. "* * * determines that because of abnormal supply or demand factors, the US steel industry will be unable to meet demand in the USA for a particular product (incuding substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product or products * * *."

We have received a short-supply request for certain normalized abrasion-resistant steel plate, carbon minimum of 0.23 percent, nickel of 2.2 percent and more, chromium minimum of 1.8 percent, and molybedum minimum of 0.2 percent. It ranges from ¼ to 1½ inches in thickness, 60 to 96 inches in width, 144 to 240 inches in length, has minimum brinell hardness of 420 and average of 450, tensile strength minimum of 200,000 psi, and is used in the manufacture of wearing plate for mines, chutes, excavators, and other related applications.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than November 19, 1987. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly identify the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B–099, Import Administration, U.S. Department of Commerce at the above address.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

October 30, 1987.

[FR Doc. 87–25905 Filed 11–6–87; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of an Import limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Turkey

November 3, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 9, 1987. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 343–6582. For information on embargoes and quota re-openings, please call (202) 377–3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Category 342/642 during the twelve-month period which began on May 27, 1987 and extends through May 26, 1988, in excess of the designated limit.

Background

On June 12, 1987 a notice was published in the **Federal Register** (52 FR 22517) announcing that the Government of the United States had requested consultations with Turkey concerning exports to the United States of cotton and man-made fiber skirts in Category 342/642, produced or manufactured in Turkey and exported to the United States.

The United States has decided, inasmuch as consulations have been held with the Government of Turkey but no mutually satisfactory solution has yet been reached concerning this category, to control imports of cotton and man-made fiber textile products in Category 342/642, produced or manufactured in Turkey and exported during the twelve-month period which began on May 27, 1987 and extends through May 26, 1988.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Turkey further notice will be published in the **Federal Register.**

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924, December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

Donald R. Foote,

Acting Chairman, Committee for the Implementation on Textile Agreements.

November 3, 1987.

Committee for the implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on November 9, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Category 342/642, produced or manufactured in Turkey and exported during the twelve/month period which began on May 27, 1987 and extends through May 26, 1988, in excess of 119,550 dozen.[1]

Textile products in Category 342/642 which have been exported to the United states prior to May 27, 1987 shall not be subject to this directive.

[1] The limit has not been adjusted to account for any imports exported after May 26, 1987.

Textile products in Category 342/642 which have been released from the custody of the U.S. Customs Service under the provision of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

Also effective on November 9, 1987, you are directed to charge, for the import period May 27, 1987 through August 31, 1987, 77,196 dozen, of which 69,936 dozen are in Category 342 and 7,260 doxen are in Category 642.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-25838 Filed 11-6-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF ENERGY

Finding of No Significant Impact (FONSI); Remedial Action at the Mexican Hat Uranium Mill Tailings Site; Mexican Hat, UT

AGENCY: U.S. Department of Energy.

ACTION: Finding of no significant impact (FONSI).

SUMMARY: The U.S. Department of Energy (DOE) has prepared an environmental assessment (EA) (DOE/EA-0332) on the proposed remedial action at the inactive uranium milling site in Mexican Hat, Utah. Based on the analyses in the EA, DOE has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*).

Background

On November 8, 1978, the Uranium Mill Tailings Radiation Control Act (UMTRCA), Public Law 95-604 (Pub. L. 95-604), was enacted in order to address a Congressional finding that uranium mill tailings located at inactive processing sites may pose potential health hazards to the general public. On November 8, 1979, DOE designated 24 inactive processing sites for remedial action under Title I of the UMTRCA, including the inactive mill tailings site at Mexican Hat (44 FR 74892).

The UMTRCA charges the U.S. Environmental Protection Agency (EPA) with the responsibility for promulgating remedial action standards for inactive mill sites. The purpose of these standards is to protect the public health and safety and the environment from radiological and nonradiological hazards associated with residual radioactive materials at the sites. The final standards (40 CFR Part 192) were published on January 5, 1983, and became effective on March 7, 1983. On September 3, 1985, the United States Tenth Circuit Court of Appeals set aside the EPA water protection standards 40 CFR 192.20(a) (2)-(3), and the EPA has not yet reissued these standards.

Under UMTRCA, all remedial actions must be selected and performed with the concurrence of the Nuclear Regulatory Commission (NRC). The DOE has proposed to continue to apply the general standards, and NRC has concurred in this plan noting that its concurrence is conditioned on further review against EPA's final groundwater protection standards. When EPA issues revised standards, DOE will review its decision about groundwater protection and will make every reasonable effort to ensure that water resources are adequately protected.

Also under UMTRCA, the DOE and the Navajo Nation entered into a cooperative agreement, effective October 7, 1983, for remedial action at the Mexican Hat designated site. Under the agreement, the Navajo Nation must concur with the remedial action plan to be developed for the site. The DOE will provide 100 percent of the engineering and construction costs.

Project Description

The Mexican Hat mill tailings site is on the Navajo Reservation in southestern Utah, in San Juan County. The Navajo community of Halchita and the town of Mexican Hat are 0.5 mile southwest and two miles northeast, respectively, of the site. The site, as designated by the DOE, is at 37 degrees 7 minutes 54 second North Latitude and 109 degrees 52 minutes 30 seconds West Longitude.

The mill was constructed and operated from 1957 to 1963, by Texas-Zinc Minerals Corporation. Atlas Corporation purchased the mill in 1963, and operated it until it was closed in 1965. Much of the ore processed at the site came from the White Canyon area of Utah and contained a considerable amount of copper sulfide and other minerals. The ground ore was treated by froth flotation, and the flotation concentrates and tailings were acid leached separately to recover both copper and uranium products. During its operation, the mill processed 2.2 million tone of ore and produced 5700 tons of uranium concentrate. In addition to the milling operation, a sulfuric acid plant was operated at the site until 1970.

The total designated site covers 235 acres. This includes the upper and lower tailings piles, the concrete pad for the mill buildings, and several associated buildings and structures (e.g., scale house, office buildings, and tanks).

The upper tailings pile covers 24 acres with an average thickness of 20 feet; the lower pile covers 45 acres with an average thickness of 21 feet. Together, the two piles contain 2,458,000 cubic yards of tailings. Neither of the piles has been stabilized. Containment dikes that were constructed have eroded away in several places, and there is evidence of extensive wind and water erosion despite the hard crust that has formed a few inches thick on the surface of the tailings.

Dispersion of the tailings by wind and water erosion has contaminated 162 acres of land adjacent to the tailings piles and outside the designated site boundary. Another 19 acres within the designated site have been contaminated by activities around the mill buildings and in the former ore storage area. The total volume of contaminated materials, including the tailings and underlying soils, is estimated to be 2,654,000 cubic yards.

The Navajo Tribal Utility Authority operates a small electrical substation and the Halchita sewage system (three lagoons) at the site. Access to the site is not restricted, but the Navajo Environmental Protection Administration has discouraged any activity at the site since 1978.

Proposed Action

The proposed action for the Mexican Hat tailings site is to stabilize the tailings piles within the existing tailings site. All of the tailings and contaminated materials, including the mill building, other structures, and the upper tailings pile, would be consolidated into a single pile at the lower pile site and covered with compacted earthen materials to inhibit radon emanation, water infiltration, and plant root penetration. A rock erosion protection barrier would be placed over the pile to inhibit water and wind erosion and discourage animal and human intrusion. Various other erosion control measures would be taken to assure the long-term stability of the stabilized tailings pile. The consolidated tailings and contaminated materials would have maximum sideslopes of 20 percent (five horizontal to one vertical), and the top would slope

two percent minimum downward to the northwest.

The stabilized tailings pile would occupy an area of 68 acres situated entirely within the designated site boundary. The entire disposal area after remedial action would cover 84 acres. After remedial action, disturbed areas surrounding the stabilized tailings pile would be restored to a condition compatible with the surrounding terrain by recontouring to promote surface-water drainage and revegetating as required for erosion control. Approximately 151 acres of the present site would be released for any use consistent with local land use controls following the completion of remedial action.

No Action

The no action alternative was also assessed in the Mexican Hat EA.

Finding

The DOE has considered the concerns expressed during public meetings and cooperating agency reviews about the environmental and health impacts from the proposed remedial action. In general, concerns relate to the impacts based on the design of the stabilized pile, impacts from radiation released during remedial action, impacts on the surface water, impacts on groundwater, and impacts on air quality.

The EA discusses the environmental impacts resulting from the proposed remedial action and identifies mitigation measures that will be implemented to assure that these effects are not significant. The Finding of No Significant Impact (FONSI) for stabilization in place at the Mexican Hat site is based on the following findings which are supported by the information and analyses in the EA:

• Radiation release—The increased radiation exposure above background levels to the general population during the remedial action will be extremely low. The estimated excess health effects were projected to be 0.01 additional cancer deaths due to radiation from the tailings during the remedial action period.

The no action alternative would result in 0.01 total estimated excess health effects per year. This number is not directly comparable to the total estimated excess health effects mentioned above for the general public because the health effects estimated for the proposed action are for the duration of tailings disturbance and account for increased radon levels due to tailings disturbance. In addition, the total estimated excess health effects for the no action alternative do not consider factors such as dispersion or unauthorized removal and use of the tailings which lead to greater excess health effects than those calculated.

The DOE will closely monitor the release of radon and particulates during the remedial action. The release of radon and contaminated particulates will be reduced by dampening the contaminated material with water or chemical dust suppressants and by using trucks with tight-fitting tailgates and covers when the material is to be moved. Drainage controls and waste-water retention ponds will be constructed to prevent contaminated water from leaving the site.

Human exposure to residual radioactive material will be reduced further by restricting access, by providing worker training programs, and by the use of necessary monitoring and protective equipment by the remedial action workers.

On this basis, it was determined that the radiation impacts from the proposed action are insignificant.

• Air quality—The estimated combustion emissions from construction equipment will not exceed Federal primary or secondary standards for carbon monoxide, hydrocarbons, nitrogen oxides, sulfur dioxide, and total suspended particulates (TSP).

Fugitive dust emissions (maximum 24-hour concentration) estimated through the use of a computer simulation model indicated that activities at the site and along the transportation route would exceed the secondary TSP standard. However, the modeling used is conservative and overpredicts potential impacts. The parameters that would tend to overpredict impacts are the assumption of light winds blowing persistently from a single direction for six consecutive hours, the assumption of stable meteorological conditions during the same six-hour period, the assumption of maximum equipment emissions and average wind erosion emissions under the meteorological scenario assumed above, and the assumption of the wind blowing perpendicular to the haul roads. On this basis, it was determined that the air quality impacts of the proposed action will be temporary and will not be significant.

• Surface water—During remedial action, surface runoff as a result of the cleanup and consolidation of the tailings and contaminated material would be minimal because the remedial action design includes the construction of drainage and erosion controls. This includes waste-water retention ponds constructed during site preparation to prevent the discharge of contaminated water from the site. The contaminated water would be retained for evaporation or use in the compaction of the tailings and contaminated materials, and any sediments from the ponds would be consolidated with the tailings during the final reshaping of the tailings pile.

After remedial action, surface runoff created by excessive precipitation would not cause erosion of the stabilized tailings pile and transport of contaminants into local surface waters because several erosion control features were incorporated into the remedial action design. The sideslopes of the pile would be limited to five horizontal to one vertical (20 percent), and the top of the pile would be gently sloped (two percent minimum). These shallow slopes would promote drainage from the pile with nonerosive flow velocities. The rock erosion protection barrier placed on the top and sideslopes of the pile is designed to withstand erosive forces of the most severe precipitation event possible, the Probable Maximum Precipitation (PMP). On this basis, it was determined that surface water quality would not be impacted during remedial action and that surface water erosion of the stabilized pile would not occur after remedial action.

• Groundwater quality—The proposed remedial action would reduce the amount of precipitation which percolates or seeps through the pile. The stabilized pile would be covered with low-permeability materials which would present a barrier to infiltration. In addition, the pile would be sloped so that precipitation would run off instead of collecting in depressions. Therefore, stabilization in place would reduce the long-term amount of groundwater contamination produced by the pile.

Also, with this decrease in the generation and migration of seepage contamination from the tailings pile, the natural discharge of the existing groundwater at the seeps in Gypsum Creek would eventually reduce the concentrations of contaminants toward background levels. Furthermore, the naturally low-flow rate of groundwater promotes physical and chemical attenuation mechanisms which would hasten the reduction of contaminant concentrations.

When the EPA issues revisions to the water protection standards (40 CFR 192.20(a)(2)–(3)) that were remanded by the U.S. Tenth Circuit Court of Appeals, the DOE will re-evaluate the groundwater issues at the Mexican Hat site to assure that revised standards are met. Performing remedial action to stabilize the tailings prior to the EPA issuing new standards will not affect the

measures that are ultimately required to meet the revised EPA water protection standards. The DOE has characterized the conditions at the Mexican Hat site and does not anticipate that any substantial changes to the remedial action would be necessary. However, after the EPA reissues the water protection standards, the DOE will determine the need for institutional controls, aquifer restoration, or other controls and will take appropriate action to comply with the reissued standards.

There is no record of past groundwater use in the area of the tailings site and there are no current users of groundwater in the area.

Based on the above, it was determined that impacts on groundwater resources would not be significant.

• There are no floodplains, wetlands, threatened or endangered species, or archaeological resources in the area that would be affected by the remedial action.

In summary, based on the analyses in the EA, the DOE has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) of 1969 (423 U.S.C. 4321 *et seq.*). Therefore, the preparation of an EIS is not required.

Single Copies of the EA are Available From: James R. Anderson, UMTRA Project Manager, U.S. Department of Energy, UMTRA Project Office, 5301 Central Avenue, N.E., Suite 1720, Albuquerque, New Mexico 87108, (505) 844–3941.

For Further Information, Contact: Carol Borgstrom, Acting Director, Office of NEPA Project Assistance, Office of the Assistant Secretary for Environment, Safety and Health, Room 3E–080, Forrestal Building, Washington, DC 20585, (202) 586–4600.

Issued at Washington, DC, September 18, 1987.

Mary L. Walker,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 87–25848 Filed 11–6–87; 8:45 am]

BILLING CODE 6450–01–M

Availability of Environmental Assessment and Finding of No Significant Impact; Remedial Action at the Mexican Hat Uranium Mill Tailings Site, Mexican Hat, UT

AGENCY: Department of Energy (DOE).

ACTION: Notice of availability of Environmental Assessment (EA) and Finding of No Significant Impact (FONSI).

SUMMARY: The DOE has published an Environmental Assessment of Remedial Action at the Mexican Hat Uranium Mill Tailings Site, Mexican Hat, Utah (DOE–EA–0332), for the proposed remedial action on residual radioactive materials at the inactive mill site. On the basis of the analysis in the EA, the DOE has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) and has issued a FONSI which appears immediately following this notice. The EA is available for public review.

Background

The uranium mill tailings were produced from processing uranium ore for sale to the Atomic Energy Commission, a predecessor of the DOE, by the Texas-Zinc Minerals Corporation, which built and operated the mill from 1957–1963. In 1963, the mill was sold to Atlas Corporation, which operated it until it closed in 1965. The tailings remaining from the operations now rest in two piles, one upper and one lower, covering, in total, approximately 69 acres and averaging 21 feet in depth.

In 1978, the U.S. Congress passed the Uranium Mill Tailings Radiation Control Act, Public Law 95–604. In this Act, the Congress found that uranium mill tailings may pose a potential radiation health hazard. It authorized the DOE to carry out remedial action at each site in cooperation with other Federal agencies and with the states or Indian tribes affected by the action. It gave to the Nuclear Regulatory Commission (NRC) responsibility for consulting with the DOE over a range of subjects concerning conduct of remedial action, for concurring with the selected remedial action and with any cooperative agreement with a state or Indian tribe, and for licensing the maintenance of each tailings disposal site after the remedial action is completed. In addition, the Environmental Protection Agency (EPA) was given the responsibility to set standards to protect public health, safety, and the environment at the disposal sites.

In accordance with Pub. L. 95–604, the DOE designated 24 sites for remedial action. One of these sites is the inactive processing site near Mexican Hat, Utah. The EPA issued standards (40 CFR Part 192) for remedial actions at inactive uranium processing sites on January 5, 1983 (48 FR 590).

Scope of the EA:

The EA evaluates the no-action alternative and the proposed alternative for minimizing the potential public health hazards associated with the Mexican Hat site. The proposed action is to consolidate all the tailings and contaminated material including the mill building and other structures, into a single pile located and at the existing lower pile site. The impacts of these alternatives are assessed in terms of effects on radiation levels, health effects, air quality, soils and mineral resources, surface water and groundwater resources, ecosystems, land use, sound levels, scenic and cultural resources, populations and employment, economic structures, and transportation networks.

Availability of the EA and FONSI:

Copies of the EA and FONSI have been distributed to Federal, State, Tribal and local agencies and to organizations and individuals known to be interested in the Mexican Hat remedial action project. Additional copies may be obtained from the Project Manager, Uranium Mill Tailings Remedial Action Project Office, U.S. Department of Energy, 5301 Central Avenue, NE., Suite 1720, Albuquerque, New Mexico, 87108. (505) 844–3941.

Copies of the EA and FONSI are available for public inspection at the following locations:

College of Eastern Utah/San Juan Campus, 639 W. 100 South, Blanding, UT 84511

Crownpoint Community Library, c/o Lioness Club, Crownpoint, NM 87513

Southern Utah State College, Library, Cedar City, UT 84720

Navajo Community College, Shiprock Branch Library, Shiprock, NM 87420

Freedom of Information Reading Room, Room 1E–190, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585

San Juan County Library, 80 N. Main, Monticello, UT 84535

Brigham Young University Library, 1368 HBLL, Provo, UT 84602

Utah State University Library, 2159 South 300 West, Salt Lake City, UT 84115

University of Utah, Marriott Library, Salt Lake City, UT 84112

Library, Oak Ridge Operations Office, Federal Building, Oak Ridge, TN 37830

Albuquerque Operations Office, National Atomic Museum, Kirtland

Air Force Base East, Albuquerque, NM 87115

San Francisco Operations Office, U.S. Department of Energy Library, 1333 Broadway, Oakland, CA 94612

U.S. Department of Energy, Grand Junction Library, P.O. Box 2567, Grand Junction, CO 81502

Library, Chicago Operations Office, 9800 South Class Avenue, Argonne, IL 60439

Library, Richland Operations Office, Federal Building, Richland, WA 99352

Library, Savannah River Operations, Savannah River Plant, Aiken, SC 29801

Nevada Operations Office, 2753 South Highland Drive, Las Vegas, NV 89114

Library, Idaho Operations Office, 550 Second Street, Idaho Falls, ID 83401

William R. Voigt, Jr.

Director, Office of Remedial Action and Waste Technology, Office of Nuclear Energy.

[FR Doc. 87-25845 Filed 11-6-87; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. PP-86]

Application by Washington Water Power Co. for Presidential Permit

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application by Washington Water Power Company for a Presidential Permit to construct an international electrical interconnection.

SUMMARY: The Washington Water Power Company (WWP) filed an application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for a Presidential permit to construct, connect, operate and maintain electric transmission facilities at the international border between the United States and Canada. Specifically, WWP seeks to construct a double-circuit alternating current (ac) transmission line with a design voltage of 230 kilovolts (kV) from the U.S.-Canadian border to a planned substation to be located in the vicinity of Spokane, Washington.

FOR FURTHER INFORMATION CONTACT:

Anthony J. Como, Department of Energy, Economic Regulatory Administration (RG-22), 1000 Independence Avenue SW., Washington, DC 20585, (202) 585-5935.

Lise Courtney M. Howe, Department of Energy, Office of General Counsel (GC-41), 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-2900.

SUPPLEMENTARY INFORMATION: On October 15, 1987, the Washington Water Power Company filed an application with the ERA for a Presidential permit pursuant to Executive Order 10485, as amended by Executive Order 12038, to construct, operate, maintain and connect a double-circuit 230 kV, overhead transmission line which will cross the U.S. international border near the city of Trail, British Columbia, and the town of Northport, Washington, to the planned Marshall substation located in the vicinity of Spokane, Washington. The length of the proposed line is approximately 118 miles (from the international boundary to Marshall substation) and would require all new rights-of-way. The two circuits will be capable of transmitting 800 to 1,200 megawatts (MW) of firm capacity to the Pacific Northwest.

The purpose of the proposed transmission line, according to the applicant, is to provide the customers of WWP and the Pacific Northwest Region with a future economic source of power supply. The application notes the need for additional supplies of peaking power for both WWP and the Northwest Region as early as 1993 and projects additional power needs of up to 210 MW and 550 MW respectively by the year 2000.

Any person desiring to be heard or to protest this application for a Presidential permit should file a petition to intervene or protest with the Economic Regulatory Administration, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, in accordance with § 385.211 or § 385.214 of the Rules of Practice and Procedure (18 CFR 385.211, 385.214).

Any such petitions and protests should be filed on or before December 9, 1987. Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application will be made available, upon request, for public inspection and copying at the Department of Energy's Freedom of Information Room, Room IE-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC from 8:00 a.m. to 4:00 p.m. Monday through Friday.

Issued in Washington, DC, on November 3, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-25847 Filed 11-6-87; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 87-41-NG]

Goetz Oil Corp.; Order Granting Blanket Authorization To Import Natural Gas; Correction

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Correction.

SUMMARY: The **Federal Register** notice of the Order issued in this docket published 52 FR 39681, October 23, 1987, inadvertently identified Goetz Oil Corporation as Goetz Oil Company. Anywhere the **Federal Register** notice reads Goetz Oil Company should be changed to read Goetz Oil Corporation.

Issued in Washington, DC, October 30, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-25702 Filed 11-6-87; 8:45 am]

BILLING CODE 6450-01-D

[ERA Docket No. 87-57-NG]

Northridge Petroleum Marketing U.S., Inc.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on October 9, 1987, of an application filed by Northridge Petroleum Marketing U.S., Inc. (Northridge) to extend for two years its existing two-year blanket authorization to import up to 100 Bcf of Canadian natural gas granted by the ERA in DOE/ERA Opinion and Order No. 88 (Order No. 88) issued September 4, 1987. The authorization will expire December 4, 1987. Northridge requests approval to increase its import to 200 Bcf for short-term or spot market sales for an additional two years to December 4, 1989. Northridge is a wholly-owned subsidiary of Northridge Petroleum Marketing, Inc, a Canadian corporation, and is registered in the State of Colorado operating as a natural gas marketing company. The gas would be imported from various Canadian suppliers by Northridge either for its own account or as agent for others. The application identifies the Mid-Atlantic and Midwestern United States as the geographic areas which Northridge anticipates will be its principal marketing areas. Northridge proposes to

continue its presently required practice of submitting to the ERA, within 30 days following each calendar quarter, quarterly reports indicating whether sales of imported gas have been made during the quarter and, if so providing the details of each transaction. Northridge's prior quarterly reports filed with the ERA indicate that approximately 3.8 Bcf of natural gas was imported under Order No. 88 through June 30, 1987. Northridge intends to use existing transmission systems that do not require the construction of significant new facilities or any new border crossing facilities that may be authorized in separate proceedings to effect delivery of the imported natural gas.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than, December 9, 1987.

FOR FURTHER INFORMATION CONTACT:

Robert M. Stronach, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9622.

Diane J. Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION:

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room, GA-076, RG-23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. They must be filed no later than 4:30 p.m. e.s.t., December 9, 1987.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference or a trial-type hearing. A request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Northridge's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 30, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-25703 Filed 11-6-87; 8:45 am

BILLING CODE 6450-01-D

[ERA Docket No. 87-29-NG]

Vector Energy (U.S.A.) Inc.; Order Granting Blanket Authorization To Import Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order granting blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Vector Energy (U.S.A.) Inc. (Vector) blanket authorization to import natural gas. The order issued in ERA Docket No. 87-29-NG authorizes Vector to import up to 150 Bcf of natural gas over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 27, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-25704 Filed 11-6-87; 8:45 am

BILLING CODE 6450-01-D

Federal Energy Regulatory Commission

[Docket No. GP87-63-000]

Cobra Oil & Gas Corp. v. Northern Natural Gas Co.; Complaint Regarding Production-Related Costs

November 4, 1987.

On July 20, 1987, Cobra Oil & Gas Corporation (Cobra) filed a complaint pursuant to 18 CFR 271.1105(d)(3) and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206. On September 14, 1987, Cobra filed additional data in support of its complaint. Cobra requests the

Production-Related Costs Board (Board) to find that Northern Natural Gas Company (Northern) is in violation of 18 CFR 271.1104 by refusing to reimburse Cobra for production-related costs incurred between March 4, 1982, and December 31, 1984.

The production-related costs in question are attributable to four wells in Woodward County, Oklahoma producing under an October 4, 1979, contract between Cobra and Northern. Cobra states that the provisions of the contract are sufficient under Order No. 94–A to allow it to be reimbursed for production-related costs and a letter agreement dated April 22, 1983, illustrates an agreement to perform a production-related service even though the letter agreement, which acknowledges a similar verbal agreement, appears to allocate such costs to Cobra.

In a letter to Cobra included in the complaint, Northern states that it feels no obligation to pay for production-related costs since Cobra agreed to install and operate the gathering facilities at Cobra's sole cost and expense.

Cobra requests the Board to issue an order finding that Cobra's claim is a valid claim, and finding that the provisions of the April 22, 1983, letter agreement and earlier verbal agreement do not bar Cobra from receiving the amounts invoiced.

Under Rules 206(b) and 213(a), 18 CFR 385.206(b) and 385.213(a), Northern must file an answer to Cobra's complaint with the Commission unless otherwise ordered by the Commission. Under Rule 213(e), 18 CFR 385.213(e), any person failing to answer a complaint may be considered in default, and all relevant facts stated in such complaint may be deemed admitted. Northern shall file its answer with the Commission not later than 15 days after publication of this notice in the **Federal Register.**

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214, 18 CFR 385.211 and 385.214. All such motions or protests should be filed not later than 15 days after publication of this notice in the **Federal Register.** Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87–25871 Filed 11–6–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER87–613–000]

Green Mountain Power Corp.; Filing

November 4, 1987.

Take notice that on October 13, 1987, Green Mountain Power Corporation (Green Mountain) tendered for filing revisions to Revised Exhibit B filed on September 1, 1987. The revisions to Exhibit B filed on September 1, 1987 were intended to implement the change in the rate of return adopted by the Vermont Public Service Board. Green Mountain states that the revisions inadvertently reflected the rate of return on common equity rather than the overall rate of return. Therefore, Green Mountain states that the corrected rate of return is 12.063%.

Green Mountain requests waiver of the Commission's regulations to the extent necessary to permit the Revised Exhibit B to become effective on March 1, 1987 in accordance with its original request.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 9, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87–25873 Filed 11–6–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–13–000]

James River Corp. of Nevada v. Northwest Pipeline Corp.; Complaint

November 4, 1987.

Take notice that on October 14, 1987, James River Corporation of Nevada ("James River"), One Bush Street, San Francisco, CA 94104, filed a complaint and request for initiation of investigation and immediate relief in Docket No. RP88–13–000, pursuant to Rule 206 of the Commission's Rules of Practice and Procedure (18 CFR 385.206), alleging the actions of Northwest Pipeline Corporation ("Northwest") in refusing to provide transportation service to James River are unduly discriminatory. James River also alleges that Northwest's actions in refusing to transport for James River and other customers and end-users in the states of Oregon, Washington and Idaho have significant anticompetitive effects which can be remedied by the Commission ordering Northwest to provide transportation to James River and, on a non-discriminatory basis, to any other persons seeking such service.

James River contends that Northwest has engaged in a discriminatory course of conduct in violation of sections 4 and 5 of the Natural Gas Act ("NGA"). James River asserts that Northwest has followed and is following a transportation policy which limits transportation to 10 percent of a distributor's system supply and constitutes a wholesale refusal to transport in displacement of its own sales. Second, James River contends that Northwest transports for some shippers under the Schedule T–6 rate approved by the Commission, but insists that other shippers transport under Rate Schedule T–5. It states that Northwest's refusal to transport under the Schedule T–6 rate effectively denies James River and others any transportation because the Commission has consistently ruled that Northwest must provide on-system interruptible transportation at the Schedule T–6 rate. Third, James River claims that Northwest has processed certificate applications under section 7(c) of the NGA, expeditiously for some shippers but in a dilatory fashion for others. Finally, James River asserts that Northwest offers firm transportation to off-system customers in Kern County, California, on terms that it has never offered to its captive on-system customers in the Pacific Northwest.

James River states that Northwest's unduly discriminatory conduct merits especially close scrutiny because it perpetuates and strengthens Northwest's overwhelming economic power in the Pacific Northwest natural gas market. James River notes that Northwest is the only pipline capable of providing transportation services to the vast majority of end-users and distributors in that region, and contends that the anticompetitive impact of Northwest's discrimination is far-reaching. James River alleges that

Northwest is controlling the market for sale of natural gas by excluding potential competitors, coercing customers seeking gas transportation from Northwest to buy gas from Northwest as well, and that Northwest is denying customers and potential competitors access to an essential gas transmission facility.

Specifically, James River requests that the Commission:

(1) Institute an investigation, pursuant to section 14(a) of the NGA and sections lb.7 and lb.8 of the Commission's Rules of Practice and Procedure, and:

(a) Shorten the response time to its complaint to seven (7) days;

(b) Establish a framework for expedited discovery; and

(c) Conduct public hearings as appropriate under Rule 206;

(2) Pending the outcome of the investigation, issue an interim order pursuant to sections 4, 5, 7 and 16 of the NGA, requiring Northwest to transport gas for James River; and

(3) At the conclusion of such investigation and hearing, issue an order:

(a) Requiring the continuance of transportation to James River and permitting transportation for all other persons requesting such service; and

(b) Granting such other relief as the Commission may deem necessary and appropriate pursuant to sections 4, 5, 7 and 16 of the NGA.

Any person desiring to become a party to this proceeding should, on or before December 4, 1987, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25869 Filed 11-6-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA87-48-000]

Pan Eastern Exploration Co.; Petition for Adjustment

Issued: November 4, 1987.

Take notice that on May 29, 1987, Pan Eastern Exploration Company (Pan Eastern) filed a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), requesting a waiver of its refund obligation to Panhandle Eastern Corporation (Panhandle) resulting from the collection of the NGPA section 108 stripper well price for gas sold from the Eagley 1-2 well, located in the Hugoton field, Morton County, Kansas, during the period October 1, 1981 through December 31, 1983. The gas from the well otherwise qualified for the section 104 flowing gas price.

Pan Eastern asserts that the subject well was eligible for a continuing qualification stripper well determination, based on seasonal fluctuations, for the October 1980 through September 1981 production period, but that Panhandle, its agent for making regulatory filings pursuant to 1973 Management Service Operating Agreement, failed to file an application for such determination within the time specified by § 271.805 of the Commission's regulations. Panhandle states that such failure caused the well to be ineligible for the above-mentioned determination.

Pan Eastern contends that because of the 1973 Agreement, it would be inequitable to require it to make refunds since Pan Eastern was unable to determine whether the proper documents had been filed with the sppropriate regulatory agency. Moreover, Pan Eastern states that if relief is denied, its out-of-pocket loss will result in special hardship and an unfair distribution of burdens.

The procedures applicable to the conduct of this proceeding are in Rules 1101-1117 (Subpart K) of the Commission's rules of practice and procedure. Any person desiring to participate in the proceeding must file a motion to intervene under Rule 1105. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25876 Filed 11-6-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. FA85-49-001]

Public Service Company of New Mexico; Order Establishing Hearing Procedures

Issued November 4, 1987.

Before Commissioners: Martha O. Hesse, Chairman, Anthony G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On July 29, 1987, the Commission issued a letter order noting Public Service Company of New Mexico (PSCNM) disagreemnt with certain items contained in staff's audit report of PSCNM's books and records (40 FERC ¶ 61,123). The disagreement relates to PSCNM's capitalization of an allowance for funds used during construction (AFUDC) on property classified as plant held for future use and the accounting for the cost of rebuilding scrubber equipment at the San Juan generating station allocable to FERC jurisdictional rates.

PSCNM was requested to advise the Commission whether it would agree to the disposition of the issues under the shortened procedures provided by § 41.3 of the Commission's regulations. 18 CFR 41.3 (1987). On August 24, 1986, PSCNM responded that it did not consent to the shortened procedures. Instead, PSCNM requested that the matters be set for hearing pursuant to § 41.7 of the Commission's regulations.

Section 41.7 of the regulations provides that the proceeding will be assigned for hearing in case consent to the shortened procedures is not given. Accordingly, the Commission will set these matters for hearing.

Any interested person seeking to participate in this docket shall file a protest or a motion to intervene pursuant to Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) no later than 15 days after the date of publication of this order in the **Federal Register.**

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act, the provisions of the Federal Power Act, particularly section 301 thereof, and pursuant to the Commission's Rules of Practice and Procedure (18 CFR, Chapter I), a public hearing shall be held concerning the appropriateness of PSCNM's accounting practices as discussed above and as more fully set forth in our July 29, 1987, letter order.

(B) A Presiding Adminstrative Law Judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding, to be held within 45 days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. The Presiding Judge is authorized to

establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25874 Filed 11-6-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP86-23-000]

Santa Fe Energy Co. v. Mountain Fuel Resources, Inc.; Complaint Regarding Production-Related Costs

November 4, 1987.

On April 4, 1986, Santa Fe Energy Company (Santa Fe) filed a complaint pursuant to 18 CFR 271.1105(d)(3) and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206. Santa Fe requests the Production-Related Costs Board (Board) to find that Mountain Fuel Resources, Inc. (Resources) is in violation of 18 CFR 271.1104 by refusing to reimburse Santa Fe for production-related costs incurred under its contract with Resources. Santa Fe states that the contract, dated January 19, 1977, contains an area rate clause and, therefore, evidences Resources' agreement to compensate Santa Fe for the cost of delivering gas to Resources' system. Santa Fe further states it has submitted a complete and accurate description of gathering charges in the amount of $310,126.58, which amount Resources refuses to pay.

Santa Fe's contract with Resources requires Santa Fe to deliver gas to Resources' master meter on its eight-inch line serving the Canyon Creek Field, Sweetwater County, Wyoming. The field facilities and gathering lines which feed into Resources' eight-inch line were constructed and maintained by the working interest owners in the Canyon Creek Unit. Since Santa Fe has a 30% working interest in the Canyon Creek Unit below the base of the Wasatch Formation, Santa Fe paid its proportionate 30% share of the costs of the gathering system. According to Santa Fe, Resources, as the other working interest owner in the field (and not as the purchaser of the gas), paid the remaining 70% of the cost of the field gathering lines (on March 30, 1984, Resources assigned its rights as a working interest owner to its wholly owned subsidiary, Wexpro Company).

Santa Fe's complaint includes a November 20, 1985, letter from Resources which alleges that Sante Fe is not entitled to the Order No. 94-A delivery allowance since: (a) Santa Fe has not borne the entire production-related cost; (b) Santa Fe is limited to a one-cent gathering allowance by the terms of the agreement; and (c) Resources' predecessor, Mountain Fuel Supply Company, did not intend that Santa Fe would receive more than a one-cent allowance. The letter also indicates that Resources may not believe that the contract contains in area rate clause.

Santa Fe requests the Board to issue an order finding that Resources is in violation of the Commission's rules and ordering Resources to pay Santa Fe $310,126.58 representing gathering allowances due Sante Fe for gas sales during the period July 25, 1980 through December 31, 1985.

Under Rules 206(b) and 213(a), 18 CFR 385.206(b) and 385.213(a), Resources must file an answer to Santa Fe's complaint with the Commission unless otherwise ordered by the Commission. Under Rule 213(e), 18 CFR 385.213(e), any person failing to answer a complaint may be considered in default, and all relevant facts stated in such complaint may be deemed admitted. Resources shall file its answer with the Commission not later than 15 days after publication of this notice in the **Federal Register.** In addition to any other arguments and defenses against Santa Fe's claim, Resources should address whether the contract contains an area rate clause.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214, 18 CFR 385.211 and 385.214. All such motions or protests should be filed not later than 15 days after publication of this notice in the **Federal Register.** Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25872 Filed 11-6-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI88-42-000 and CI88-43-000]

Sonat Exploration Co.; Applications for Abandonment Authorization and for Blanket Limited-Term Certificate with Pregranted Abandonment

November 4, 1987.

Take notice that on October 16, 1987, as supplemented on October 29, 1987, Sonat Exploration Company (Applicant), 5599 San Felipe, P.O. Box 1513, Houston, Texas 77251-1513, filed applications pursuant to sections 7(b) and 7(c) of the Natural Gas Act and §§ 157.23 and 157.30 of the Commission's Regulations thereunder, requesting (1) permanent abandonment of its sale to Sea Robin Pipeline Company (Sea Robin) of gas produced from East Cameron Block 231, Ship Shoal Block 222, and Ship Shoal Block 225, offshore Louisiana and (2) a three-year blanket limited-term certificate with pregranted abandonment in order to make sales in the spot market.

Applicant received certificates of public convenience and necessity in Docket Nos. CI77-509, CI69-232 and CI72-773 for sales of natural gas to Sea Robin pursuant to respective contracts dated May 12, 1977, August 26, 1968, and April 27, 1972, on file with the Commission as Sonat Exploration Company FERC Gas Rate Schedule Nos. 2, 14 and 15.

In support of its applications Applicant states that Sea Robin no longer has need for the gas. Sea Robin's past and current pruchases of gas, according to Applicant, have been and will continue to remain at levels significantly less than the deliverability of the wells. Applicant and Sea Robin terminated their contracts effective July 1, 1987. Deliverability is approximately 20 Mcf/d. The gas in NGPA section 104 gas (43%) and 102(d) gas (57%).

Any person desiring to be heard or to make any protest with reference to said applications should, on or before November 19, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to the

proceedings herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25877 Filed 11-6-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-14-000]

South Carolina Pipeline Corp. v. Southern Natural Gas Co.; Complaint

November 4, 1987.

Take notice that on October 22, 1987, South Carolina Pipeline Corporation (South Carolina), P.O. Box 6317, Columbia, South Carolina 29260, filed a complaint and request for injunctive relief and for expeditious procedures in the captioned proceeding, stating that Southern Natural Gas Company (Southern) is making payments under certain gas contracts which violate sections 4 and 5 of the Natural Gas Act and section 601 of the Natural Gas Policy Act of 1978. South Carolina also requests that the Commission exercise its enforcement powers under section 20 of the Natural Gas Act and section 504(b) of the Natural Gas Policy Act of 1978 to seek an injunction, in the United States District Court for the District of Columbia, to prohibit Southern from making excessive payments under those gas contracts. A portion of the complaint which described the contracts, as well as the actual contracts were filed under seal pursuant to a 1983 protective agreement in *Southern Natural Gas Company*, Docket No. TA81-2-7-000, *et al.*

South Carolina states that Southern purchases gas from Pursue Energy Corporation, Grace Petroleum Corporation and 3300 Corporation in the Thomasville Field in Rankin County, Mississippi. South Carolina states that according to Southern's PGA filing in Docket No. TA88-1-7-000, the gas purchased is deep, high-cost gas qualifying under section 107(c)(1) of the NGPA and the current price for gas under the Thomasville Field contracts is $8.08 per MMBTu. South Carolina states that Southern's customers will be required to pay over $32,000,000 per year for gas from the Thomasville Field.

South Carolina requests that the Commission act on an expedited basis to issue a final decision by November 1, 1988. South Carolina requests that a hearing be convened, in which it would seek a reduction in the price payable under the Thomasville Field contracts, to the lesser of Southern's WACOG recalculated without the volumes from the Thomasville Field, or the price of No. 6 fuel oil. South Carolina also asks that the record in *Southern Natural Gas Company*, Docket No. RP86-63-000 and RP86-114-000 be incorporated, stating that such evidence is material and relevant to Southern's gas acquisition practices during the relevant time periods.

Finally, as noted earlier, South Carolina requests that the Commission seek injunctive relief in the United States District Court for the District of Columbia prohibiting Southern from making payments under the Thomasville Field contracts which are in excess of the lesser of Southern's WACOG as calculated without the Thomasville Field volumes, or the price of No. 6 fuel oil, pending a final Commission decision. South Carolina states that such immediate injunctive relief is necessary to prevent irreparable harm to Southern's customers.

As provided in Rule 213, 18 CFR 385.213 (1987), Southern, as respondent to the complaint, must make an answer to the complaint, unless the Commission orders otherwise. Failure to answer a complaint will cause the respondent to be considered in default, and all relevant facts stated in such complaint may be deemed admitted. Southern shall file its answer within 30 days of the date of issuance of this notice.

Any person desiring to be heard or to make any protest with reference to said complaint should on or before December 4, 1987, file with the Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25870 Filed 11-6-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-513-000

Tenngasco Gas Supply Co., et al. v. Southland Royalty Co., et al., Proposed Stipulation and Agreement in Partial Settlement of Proceedings

November 3, 1987.

Take notice that Southland Royalty Company, Exxon Corporation, Mobil Producing Texas & New Mexico Inc., The Penn Group, the Wright Group, the Markey Estate, the Markey Group (hereinafter collectively "Southland, *et al.*"), HT Gathering Company, Houston Pipe Line Company, Intratex Gas Company, Tenngasco Gas Supply Company, Southern California Gas Company, Pacific Gas and Electric Company, Southwest Gas Corporation, and the Enforcement Staff of the Federal Energy Regulatory Commission (hereinafter the "Sponsoring Parties") on October 23, 1987 filed with the Federal Energy Regulatory Commission ("Commission") an offer of settlement and a Stipulation and Agreement in Partial Settlement of Proceedings ("Stipulation") in the captioned docket.

The captioned proceeding was initiated by a Complaint filed June 18, 1985 by HT Gathering Company, Tenngasco Gas Supply Company, Houston Pipe Line Company's predecessor, Houston Natural Gas Corporation, and Intratex Gas Company. The Complainants alleged that some or all of the gas sold intrastate to HT Gathering by Southland, *et al.*, from July 14, 1975 and thereafter, from the Waddell Ranch, Crane County, Texas may have been dedicated to El Paso Natural Gas Company in interstate commerce. The Sponsoring Parties have negotiated a settlement which resolves all issues in the captioned proceeding as among themselves. The Stipulation is supported by the Sponsoring Parties and the People of the State of California and the Public Utilities Commission of the State of California. El Paso Natural Gas Company ("El Paso") and Chevron U.S.A. Inc., do not oppose this Stipulation. The Stipulation does not apply to Chevron U.S.A. Inc.

The Stipulation resolves as against the Sponsoring Parties, and their officers, directors, employees, agents or representatives, all claims which were or could be raised in the captioned docket, including issues relating to the production, gathering, processing, treating, conditioning, purchase, sale, resale, transfer, delivery and/or exchange, accounting and allocation, or failure to engage in such activities, and the prices or other consideration

received for such activities, of gas described in the Stipulation from July 14, 1975 forward, due to the activities described in the Stipulation.

According to the Stipulation, Southland, *et al.* shall make refunds to El Paso for distribution by El Paso to both its jurisdictional and non-jurisdictional customers. The method of calculating the amount of refunds to all of El Paso's customers is set forth in the Stipulation. The Stipulation expressly provides that receipt of refunds by these customers will forclose all claims regarding the matters described in the Stipulation.

The Stipulation delineates how certain of the Southland, *et al.* gas will be made available to El Paso and what Southland, *et al.* gas may be sold to any purchaser(s). In addition, the Stipulation shall constitute appropriate and sufficient request for certificate, abandonment, and all other necessary authorizations and waivers, including but not limited to authorizations under the NGA and waiver of §§ 157.18 and 157.23, *et seq.* of the Commission's Regulations. Commission approval of the Stipulation shall constitute the grant of all such authorizations and waivers. The Stipulation specifies that no violation of any statute is deemed to have occurred and no penalty has been imposed.

The Stipulation provides the procedure for making refunds, suspends the hearing in the proceeding, and specifies the effect any subsequent determination in the proceeding may have concerning matters subject to the Stipulation. The Sponsoring Parties also have requested that the Commission grant such waivers and special permissions with respect to the requirements of the Commission's regulations as are necessary to effectuate the Stipulation.

The description of the Stipulation contained herein is not exhaustive. The Stipulation and related documents are available and on file with the Commission, and can be reviewed by any interested person.

The sponsoring Parties requested that the Presiding Administrative Law Judge certify the Stipulation promptly to the Commission, as reflected by his order issued October 26, 1987. Furthermore, waiver of Rule 602(f)(2) has been granted to the extent that all comments should be filed directly with the Commission.

Any person not a party and desiring to be heard or to protest the offer of settlement should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washingotn, DC 20426, in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions should be filed on or before November 9, 1987.

Any person filing comments should address such comments directly to the Commission. Initial comments should be filed on or before November 9, 1987 and reply comments on or before November 16, 1987. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-25875 Filed 11-6-87; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Intent to Prepare an Environmental Impact Statement and Floodplain/Wetlands Assessment for the Blue River-Summit Transmission Line Project, Summit County, CO

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Department of Energy (DOE), Western Area Power Administration (Western), will prepare an environmental impact statement (EIS) for their proposal to rebuild the existing 115 kilovolt (kV) transmission line that runs from the Blue River Substation to the Summit Substation in Summit County, Colorado. The line is proposed for rebuilding because it is in a deteriorated condition and lacks overhead lighting protection. These conditions have contributed to problems with reliability. Rebuilding the line will increase reliability, safety, and power carrying capacity. The existing line crosses the Blue River several times, and a floodplains assessment will be prepared to assess potential impacts from any proposed actions that may occur in the floodplain.

DATES: Dates and locations of public meetings and hearings will be announced in the **Federal Register** and local newspapers as they are scheduled.

ADDRESSES: Comments or information concerning this proposed action should be sent to: Mr. Mark N. Silverman, Area Manager, Loveland Area Office, Western Area Power Administration, P.O. Bos 3700, 5555 East County Road 26, Loveland, CO 80539.

FOR FURTHER INFORMATION CONTACT: William Melander, Environmental Manager, at the above address or telephone (303) 224-7231.

SUPPLEMENTARY INFORMATION: In accordance with the Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of the National Environmental Policy Act of 1969 (NEPA), 40 CFR Parts 1500-1508, Western will prepare an EIS for the proposed rebuild of the existing 115-kV Blue River-Summit Transmission Line in Summit County, Colorado. In accordance with DOE guidelines for compliance with floodplain/wetlands environmental review requirements, 10 CFR Part 1022, Western will prepare a floodplain/wetlands assessment that will assess potential impacts on the Blue River and nearby streams or wetlands from proposed construction alternatives. It is expected that the rebuilt line will span the floodplain and wetlands.

Western proposes to rebuild approximately 14 miles of the Blue River-Summit 115-kV Transmission Line between the Blue River Substation and the Town of Silverthorne, Colorado. The existing line was built in 1938 and has exceeded its service life and is in a deteriorated condition. The line lacks overhead ground wire lightning protection, is subject to high power losses because of its small conductor, and does not provide for additional capacity for future load growth in the area. The line is an essential load serving line in the area and also will serve a future substation in Silverthorne that is proposed to be constructed by the Public Service Company of Colorado.

Summit County officials requested that Western consider moving the line off of the existing route where feasible. The county considers the Blue River Valley a scenic corridor. Western began preparation of an environmental assessment for the proposed project and considered routing and other alternatives to the project. Public controversy over land use and visual impacts associated with new transmission line routes and the existing route indicated that an EIS should be prepared. In addition to the location alternatives for the transmission line, Western will consider the no-action alternative, systems alternatives, and

alternative technologies such as undergrounding.

Issued in Golden, Colorado, October 30, 1987.

William H. Clagett,

Administrator.

[FR Doc. 87-25849 Filed 11-6-87; 8:45 am]

BILLING CODE 6450-01-M

Wetland Determination for the Arminto-Casper (Casper-Waltman) 69/115-KV Transmission Line, Thermopolis-Alcova-Casper Transmission Line Project, WY

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of comment period.

SUMMARY: The Department of Energy (DOE), Western Area Power Administration (Western) proposes to install at least six transmission line structures within a wetland associated with Ten Mile Draw near Casper, Wyoming, as part of the Arminto-Casper 69/115-kilovolt (kV) Transmission Line Project. To minimize the effects to the wetland, Western will limit construction activities to the winter or dry seasons, and restore any damaged wetland areas.

In accordance with § 1022.14 of the DOE Procedures for Floodplain/Wetlands Review (44 FR 12598), Western will allow 15 days for public and agency comment following the publication of the Public Notice before taking any action.

DATE: Comments must be submitted on or before November 24, 1987.

ADDRESS: Comments should be addressed to: Mr. Mark N. Silverman, Area Manager, Loveland Area Office, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539.

FOR FURTHER INFORMATION CONTACT: Bill Melander, 303-490-7231.

SUPPLEMENTARY INFORMATION: On March 1, 1985, Western issued a record of decision (ROD) for the construction, operation, and maintenance of the Thermopolis-Alcova-Casper Transmission Line Project (Project), Wyoming. The ROD addressed the reconstruction of the existing Arminto-Casper 69-kV Transmission Line on most of its existing right-of-way (ROW). The Arminto-Casper rebuild was addressed as an element of the Project in the environmental impact statement (EIS) prepared for the Project DOE/EIS-0101).

Because of unforeseen land use conflicts with the Arminto-Casper rebuild, Western proposed to reroute a segment of the Arminto-Casper differently than addressed in the EIS. Western initiated an environmental analysis for the reroute, and found that a portion of the reroute traversed an area mapped as wetland by the U.S. Geological Survey. The mapped area is along Ten Mile Draw, west of Casper, Wyoming, in Section 36, Township 34 North, Range 81 West, about 1.5 miles southwest of the Natrona County International Airport. To verify the status of the wetland, Western initiated consultation with the Fish and Wildlife Service (FWS), U.S. Department of the Interior on July 21, 1987. The FWS indicated that the area does have wetlands that merit protection under Executive Order 11990 in a letter dated August 20, 1987, and further recommended that transmission line construction within the wetland be confined to the dry season or winter.

The rerouted portion of the transmission line will traverse about 4,000 feet of the wetland area, necessitating the installation of at least six H-frame, wood-pole structures within the wetland. Western did not pursue moving the transmission line to avoid the wetland because of extensive existing and proposed agricultural, residential, and industrial development in the vicinity south of the wetland. Western has adopted FWS recommendations and will limit construction activities during the dry periods or to a period in the winter when the ground is sufficiently frozen to support construction and structure erection equipment. In addition, Western will restore any wetland area damaged by construction activities.

In accordance with § 1022.14 of the DOE Procedures for Floodplain/Wetlands Review, Western has informed interested Federal, State, and local agencies and persons known to be interested in the proposed wetland action. Following the publication of the Public Notice in the **Federal Register**, Western will allow 15 days for further public and agency comment. At the close of the public comment period, Western will reevaluate the practicability of alternatives to the proposed wetland action and the mitigating measures, taking into account all substantive comments received. Western will take no action prior to 15 days after publication of this Public Notice in the **Federal Register**.

Issued in Golden, Colorado, October 30, 1987.

William H. Clagett,

Administrator.

[FR Doc. 87-25846 Filed 11-6-87; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3288-8]

Approval of Prevention of Significant Air Quality Deterioration (PSD) Permit to Star-Kist Samoa, Inc. (EPA Project Number AS 86-01)

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice is hereby given that on May 19, 1987 the Environmental Protection Agency issued a PSD permit under EPA's federal regulations 40 CFR 52.21 to Star-Kist Samoa, Inc. The PSD permit grants approval to construct a can end making facility to be located in the village of Onua on the Island of Tutuila, American-Samoa. The permit limits the applicant to 500 million can ends per year with a low VOC solvent coating of 500 grams/liter.

The permit is subject to certain conditions, including an allowable emission rate as follows: Ozone (VOC)-51.5 lbs/hr.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address request to: Linda Barajas (A-3-1), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-8221, FTS 454-8221.

SUPPLEMENTARY INFORMATION: Best Available Control Technology (BACT) requirements include the use of low solvent coating.

Dated: October 29, 1987.

Kenneth Bigos,

Acting Director, Air Management Division, Region 9.

[FR Doc. 87-25901 Filed 11-6-87; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL-3287-9]

Financial Assistance Program Eligible for Review Under 40 CFR Part 29 and Subject to Section 204 of the Demonstration Cities and Metropolitan Development Act

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability and review.

SUMMARY: Pursuant to the Water Quality Act Amendments of 1987, Pub. L. No. 100-4, the Environmental Protection Agency (EPA) is announcing the availability of a new financial assistance program, CFDA No. 66.459—

Nonpoint Source Reservation under section 205(j)(5) of the Clean Water Act. This program will support the development of State Nonpoint Source (NPS) Management Programs as required by section 319 of the Clean Water Act. The Act requires that States, within 18 months of the date of enactment of the Water Quality Act Amendments (February 4, 1987), develop a comprehensive nonpoint source Assessment Report and Management Program. Upon completion and EPA approval of the Assessment Report and Management Program, section 205(j)(5) funds as well as section 319 funds, are authorized for use in implementing the Management Program and for updating the existing Assessment Report and Management Program.

Funds available include section 205(j)(5) funds under the FY 1987 Supplemental Appropriation and those included in the President's proposed budget for FY 1988, subject to Congressional appropriation. Due to the recent availability of the FY 1987 Supplemental Appropriation (July 1987), many States prepared and submitted grant applications prior to the end of FY 1987.

FOR FURTHER INFORMATION CONTACT: Carl F. Myers, Chief, Nonpoint Sources Branch (WH-585), U.S. EPA—Headquarters, 401 M Street SW., Washington, DC 20460.

For Regional Office Program and Pre-Application Assistance Contact:

Bart Hague, NPS Coordinator, U.S. EPA—Region I, JFK Federal Building, Room 813, Boston, Mass. 02203

Rick Balla, NPS Coordinator, U.S. EPA—Region II, 26 Federal Plaza, New York, NY 10278

Andrew Uricheck, NPS Coordinator, U.S. EPA—Region III, Curtis Bldng., 6th & Walnut Sts., Philadelphia, PA 19106

Bo Crum, NPS Coordinator, U.S. EPA—Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365

Tom Davenport, NPS Coordinator, U.S. EPA—Region V, 230 South Dearborn Street, Chicago, Illinois 60604

Russell Bowen, NPS Coordinator, U.S. EPA—Region VI, 1445 Ross Avenue, Dallas, Texas 75202

Bob Steiert, NPS Coordinator, U.S. EPA—Region VII, 726 Minnesota Avenue, Kansas City, KS 66101

Roger Dean, NPS Coordinator, U.S. EPA—Region VIII, One Denver Place, 999 18th Street, Denver, Colorado 80202-2413

Wendell Smith, NPS Coordinator, U.S. EPA—Region IX, 215 Fremont Street, San Francisco, California 94105

Elbert Moore, NPS Coordinator, U.S. EPA—Region X, 1200 6th Avenue, Seattle, Washington 98101

SUPPLEMENTAL INFORMATION: Section 205(j)(5) funds are reserved for "the purpose of carrying out section 319" of the Act. The reserve is an annual set-aside of 1% of each State's construction grant allotment or $100,000, whichever is greater. These funds are available for developing and updating a State's Nonpoint Assessment Report and Management Program. Under section 319 of the Act, as amended, these funds are also available for implementing the recommendations and programs contained in an approved Management Program.

Grant applications must include work programs which specify (in accordance with the Administrator's Policy on Performance Based Assistance, dated May 31, 1985) how these funds will be used and coordinated with other Federal and State supported nonpoint source program activities. Work programs must specify tasks/outputs, schedules and person years of effort for all activities supported under this program. Further information regarding grant application procedures and requirements is available from EPA's Regional Assistance Administration Units. Detailed program guidance is available from the above contacts.

In the development phase of this program, two major documents are required—a nonpoint source Assessment Report and a Management Program. The *Assessment Report* describes the nature, extent and effect of nonpoint source water pollution, the causes of such pollution and the programs and methods used for their control. States are encouraged to use their 1988 section 305(b) Reports (due April 1988) to meet the requirements of the Assessment Report. Final Assessment Reports are due no later than August 4, 1988. The *State Management Program* (also required by August 4, 1988) includes an overview of the State's current NPS program as well as a description of what the State intends to implement and accomplish over the next four fiscal years, e.g., identification of best management practices, schedules for program implementation, certification of existing authorities, listing of additional authorities required, etc.

Section 205(j)(5) funds may be used for implementing a State's nonpoint source Management Program, *if* a State has an approved Assessment Report and Management Program. Funds used for implementation, however, require a State matching contribution (40 percent) and a maintenance-of-effort (MOE). Eligible activities include regulatory or nonregulatory programs for enforcement, technical assistance, financial assistance, education, training, etc.

This program is eligible for intergovernmental review under Executive Order 12372 and is subject to the review requirements of section 204 of the Demonstration Cities and Metropolitan Development Act. States must notify the following office in writing within thirty days of this publication whether their State's official E.O. 12372 process will review applications in this program: Grants Policy and Procedures Branch, Grants Administration Division (PM-216F), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Applicants must contact their State's Single Point of Contact (SPOC) for intergovernmental review as early as possible to find out if section 205(j)(5) grant applications are subject to the State's official E.O. 12372 review process and what material must be submitted to the SPOC for review. In addition, applications including projects within a metropolitan area must be sent to the areawide/regional/local planning agency designated to perform metropolitan or regional planning for the area for their review.

SPOCs and other reviewers should send their comments concerning applications to the appropriate EPA Regional Offices, no later than sixty days after receipt of an application/other required material for review.

Dated: October 30, 1987.

Edmund M. Notzon,

Director, Criteria and Standards Division.

[FR Doc. 87-25902 Filed 11-06-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3289-3]

Science Advisory Board, Environmental Health Committee, Halogenated Organics Subcommittee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a four-day meeting of the Science Advisory Board's Halogenated Organics Subcommittee of the Environmental Health Committee will be held on November 19-20, 1987 at the Georgetown Facility of the National Academy of Sciences located at 2001 Wisconsin Avenue, Washington, DC 20007. The meeting will be in Conference Room #110 on November 19th and in Conference Room #120 on November 20th. The meeting will begin

at 9:00 a.m. on November 19 and adjourn no later than 4:00 p.m. on November 20.

The Halogenated Organics Subcommittee of the Environmental Health Committee will review the health criteria documents for PCBs, 1,2-dichloropropane and cis- and trans-dichloroethylene.

An agenda for the meeting is available from Ms. Reneé Butler, Staff Secretary, Science Advisory Board (A-101F), U.S. Environmental Protection Agency, Washington, DC, 20460, (202) 382-2552. The health criteria documents are available from the Health Effects Branch, Office of Drinking Water, USEPA, Washington, DC, 20460, (202) 382-7571.

The meeting will be open to the public. Any member of the public wishing to attend, obtain information or otherwise participate in these meetings must contact Dr. C. Richard Cothern, Executive Secretary, Environmental Health Committee by telephone at (202) 382-2552 or by mail to: Science Advisory Board (A-101-F), 401 M Street SW., Washington, DC, 20460 no later than c.o.b. on November 13, 1987.

Terry E. Yosie,

Director, Science Advisory Board.

Date: October 30, 1987.

[FR Doc. 87-25903 Filed 11-6-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3289-2]

Proposed Issuance of National Pollutant Discharge Elimination System (NPDES) Permits to Discharge to Waters of the United States and State Determination of Consistency With the Alaska Coastal Zone Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Revised public notice expiration dates for public notice No. AKG284100 (Beaufort Sea II).

SUMMARY: This notice extends the public comment period for the Beaufort Sea II permit published in the **Federal Register** on September 30, 1987 (52 FR 36617). The public comment period for the permit has been extended 30 days. Persons wishing to provide comments on the draft permit must ensure that EPA, Region 10, receives the comments by 4 p.m. on December 9, 1987.

Dates for tentatively-scheduled public hearings on this draft permit will not be affected by the comment period extensions.

Public Comment Period: Original Public Notice Expiration Date: November 9, 1987, Revised Public Notice Expiration Date: December 9, 1987.

FOR FURTHER INFORMATION CONTACT: Duane Karna, Telephone No. (206) 442-1413, Ocean Programs Section, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

Date: November 3, 1987.

Robert S. Burd,

Director, Water Division.

[FR Doc. 87-25904 Filed 11-6-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. W-27]

Window Notice for the Filing of FM Broadcast Applications

Release: October 28, 1987.

Notice is hereby given that applications for vacant FM broadcast allotment listed below may be submitted for filing during the period beginning October 28, 1987 and ending December 3, 1987 inclusive. Selection of a permittee from a group of acceptable applicants will be by the Comparative Hearing process.

CHANNEL—289 A

Orange Beach	AL
Dermott	AR
Avenal	CA
Watertown	FL
Ashburn	GA
Bicknell	IN
Eminence	KY
Hawesville	KY
Eden Prairie	MN
Springfield	MN
Elizabethtown	NC
Marysville	OH
Portage	PA
Rockwood	TN
Raymondville	TX
Salem	WV

CHANNEL—230 A

Alexandria	LA

CHANNEL—289 C1

Yakima	WA

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-25819 Filed 11-6-87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87-476]

Applications for Consolidated Hearing; Ford F.M., Inc. and Casey Broadcast Group, Inc.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM docket No.
A. Ford F.M., Inc.; Casey, IL	BPH-860224MN	87-476
B. Casey Broadcast Group, Inc.; Casey, IL	BPH-860317NS	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Comparative, A, B
2. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW, Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone (202) 857-3800.)

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-25812 Filed 11-6-87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87-490]

Applications for Consolidated Hearing; G&D Communications, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant; city and State	File No.	MM Docket No.
A. G&D Communications, Inc.; Paris, Texas.	BPCT-860203LI	87-490
B. Janis Sheree Blair d/b/a The Yellow Rose of Texas; Paris, Texas.	BPCT-621216IM	
C. Fredrick Grimm d/b/a Mountlake Productions, Ltd., Paris, Texas.	BPCT-870331LU	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, A,B,C
2. Contingent Environmental, B,C
3. Comparative, A,B,C
4. Ultimate, A,B,C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copy during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Roy J. Stewart,

Chief, Video Services Division Mass Media Bureau.

[FR Doc. 87-25813 Filed 11-6-87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87-489]

Applications for Consolidated Hearing; Garcia Communications, et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, city, and State	File No.	MM Docket No.
A. Garcia Communications, Porterville, CA.	BPCT-870331K9	87-489
B. Arthur C. Kralowec, Porterville, CA.	BPCT-870526KK	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading Applicant(s)

Air hazard, A, B
Comparative, A, B
Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commisson's duplicating contractor, International Transcription Services, Inc., 2100 M. Street, NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Roy J. Stewart,

Chief Video Services Division, Mass Media Bureau.

[FR Doc. 87-25814 Filed 11-16-87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket NO. 87-492]

Applications for Consolidated Hearing; Walter Gray Gilbert, et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No	MM Docket No.
A. Walter Gray Gilbert, Indianola, MS.	BPH-860114NB	87-492
B. Minority Broadcasting Corporation, Indianola, MS.	BPH-860122ML	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading, Applicants

1. Air Hazard, A, B
2. Comparative, A, B
3. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW, Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW, Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-25815 Filed 11-6-87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87-477]

Applications for Consolidated Proceeding; Kingsley H. Murphy Jr., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. Kingsley H. Murphy, Jr., New Prague, MN.	BPH-860506MG	87-477
B. New Prague Broadcasting Company, New Prague, MN.	BPH-860507MD	
C. Joanna Kalyvas, New Prague, MN.	BPH-860507MF	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading Applicant(s)

1. Comparative, A, B, C
2. Ultimate, A, B, C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87–25816 Filed 11–6–87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87–466]

Applications for Consolidated Hearing; Running Rhodes, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. Running Rhodes, Inc., Harbor Springs, MI.	BPH–850613MB	87–466
B. Patricia Ann Mason, Harbor Springs, MI.	BPH–850710MH	
C. Harbor Springs Radio, Limited, Harbor Springs, MI.	BPH–850712NJ	(dismissed)

2. Pursuant to 47 U.S.C. 309(e), the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347 (May 29, 1986). The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. Comparative, A, B
2. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87–25817 Filed 11–6–87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87–488]

Applications for Consolidated Hearing; Sharon S. Smith et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, city, and State	File No.	MM Docket No.
A. Sharon S. Smith, Destin, Fl.	BPCT–870330KY	87–488
B. William F. Parrish, Jr., Destin, FL.	BPCT–870331PT	
C. Philip A. Campolo d/b/a Airwave Media, Ltd., Destin, FL.	BPCT–8703315K	
D. Emerald Coast Broadcasting, Destin, FL,.	BPCT–870610KQ	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standarized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading, Applicant(s)

1. Air hazard A, C, D
2. Qualifications, C
3. Comparative, A, B, C, D
4. Ultimate, A, B, C, D

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in a Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC. 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division. Mass Media Bureau.

[FR Doc. 87–25818 Filed 11–6–87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

FEMA Advisory Board Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, announcement is made of the following FEMA Advisory Board meeting:

Name: Federal Emergency Management Agency Advisory Board.

Dates of Meeting:

November 30, 1987, 1:00 p.m. to 4:00 p.m.
December 1, 1987, 9:00 a.m. to 12:30 p.m.

Place: Federal Emergency Management Agency, Emergency Information and Coordination Center, 500 C Street SW., Washington, DC 20472.

Purpose: FEMA executives will provide reports on the Agency's budget and personnel. The status of a review of civil defense programs will be provided an discussed. Program development concepts for the protection of national infrastructure assets will be discussed. A session on the future work agenda for the Board and Board Panels will be conducted. Discussions will include classified information. The Director has determined that the Board meeting should be closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. 11, (1982)), because discussions will involve information that is specifically authorized to be kept "Secret" in the interest of national defense and is properly classified pursuant to the Executive Order.

Robert H. Morris,

Deputy Director.

[FR Doc. 87–25856 Filed 11–6–87; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal

Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–010390–015.
Title: United States Atlantic & Gulf/Ecuador Steamship Conference.
Parties:

Crowley Caribbean Transport, Inc.
Lykes Bros. Steamship Co., Inc.
Ecuadorian Line, Inc.

Synopsis: The proposed amendment would restate the agreement and would permit the parties to offer alternative port service to or from any port listed in the conference tariff. It would also permit the parties to exercise independent action on the level of compensation paid to an ocean frieght forwarder who is also a customs broker.

Agreement No.: 232–011155.
Title: Wallenius/NYK/MOSK Space Charter and Cooperative Working Agreement.
Parties:

Wallenius Line (Wallenius)
Nippon Yusen Kaisha (NYK)
Mitsui O.S.K. Lines, Ltd. (MOSK)

Synopsis: The proposed agreement would permit Wallenius to charter space aboard vehicle carrier vessels owned or chartered by NYK and MOSK in the trade from the United Kingdom and Atlantic, Baltic and North Sea ports of Europe to United States Atlantic, Gulf and Pacific ports, including Alaska, Hawaii and Puerto Rico, including shipments to, from or between inland points via such ports. It would also permit the parties to agree upon the capacity and scheduling of the vessels to be utilized.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: November 4, 1987.

[FR Doc. 87–25913 Filed 11–6–87; 8:45 am]
BILLING CODE 6730–01–M

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR part 510.

License Number: 1998
Name: Kopak Inc.
Address: P.O. Box 660092, Miami Springs, FL 33266–0092
Date Revoked: September 29, 1987
Reason: Surrendered license voluntarily.

License Number: 732
Name: Universal Transport Corporation
Address: 70 West 36th St., New York, NY 10018
Date Revoked: October 1, 1987
Reason: Failed to maintain a valid surety bond.

License Number: 3026
Name: LCL International Packaging, Inc.
Address: 630 Glover Street, Detroit, Michigan 48214
Date Revoked: October 12, 1987
Reason: Failed to maintain a valid surety bond.

License Number: 3024
Name: S.A. Chiarella dba S.A. Chiarella Forwarding Co.
Address: 1233 Nadina, San Mateo, CA 94402
Date Revoked: October 14, 1987
Reason: Failed to maintain valid surety bond.

License Number: 2426
Name: Shigehiro Uchida dba Jupiter Forwarding Co.
Address: 4650 S. Eastern Ave., City of Commerce, CA 90080
Date Revoked: October 17, 1987
Reason: Failed to maintain valid surety bond.

License Number: 2559
Name: Transhansa Projects, Inc.
Address: 21 West Street, Suite 2306, NY 10006
Date Revoked: October 18, 1987
Reason: Failed to maintain a valid surety bond.

License Number: 88
Name: W.L. Richeson & Sons, Inc.
Address: 442 Canal Street, P.O. Box 50248, New Orleans, LA 70150
Date Revoked: October 20, 1987
Reason: Failed to maintain a valid surety bond.

Robert G. Drew,

Director, Bureau of Domestic Regulation.

[FR Doc. 87–25911 Filed 11–6–87; 8:45 am]
BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants

Notice is given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarder and Passenger Vessel Operations, Federal Maritime Commission, Washington, DC. 20573.

Gladys R. Fernandez dba Glad Freight Int'l., 3351 SW 141 Ave., Miami, FL 33175

Transit Cargo Corporation, 8282 N.W. 14th Street, Miami, FL 33126
Officers: Eduardo Del Pozo, Jr., President, Rene Bailon, Vice President

Florida Worldwide Citrus Products Group, Inc., 2004 6th Avenue, West, Bradenton, FL 34205
Officers: Martin O' Brien, President, Jan Soudyn, Vice President

Montgomery & Montgomery, 230 North Michigan Ave., Chicago, ILL 60601
Officers: Charles W. Montgomery, President, Clementine Montgomery, Vice President

Gerard Michael Arzillo dba Rapid Air Forwarding, 6966 N.W. 12th Street, Miami, FL 33126

Transway Airfreight Cargo Inc., 2205 N.W. 70th Avenue, Miami, FL 33122,
Officers: Frank Jimenez, President, Lilo Casado, Vice President

Rafael Eduardo Iniguez, 1222 E. Imperial Ave., El Segundo, CA 90245
Officers: Alberto Planas, President, Rafael E. Iniguez, Vice President, Zoila Planas, Secretary

Sam (Shih Yuan) Chang dba Allgreen Worldwide, Express Corporation, 523 Thomas Drive, Bensenville, IL 60106
Officers: Sam Chang, President, Mei Chang, Vice President, Julie Chang, Treasury

Ronald Ray Hodge dba F.H. Kaysing Co. of Wichita, 3000 W. Kellog, Suite #304, Wichita, KS 67213

Troy Abercrombie dba Freight International Services, Ltd., 4702 Lucerne Valley Road, Lilburn, GA 30247
Officers: Troy Lee Abercrombie, President, Marcus Troy Abercrombie, Vice President

Laura DeGroot dba United Global Services, Inc., 1303 Meade Lane, Arlington Heights, IL 60004
Officer: Laura DeGroot, President & Director

Mouttet, Michael Roland dba Michael R. Mouttet, 10790 N. Kendall Drive, Apt. #C–25, Miami, Florida 33176

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: November 4, 1987.

[FR Doc. 87-25912 Filed 11-6-87; 8:45 am]

BILLING CODE 6730-01-M

Intent To Cancel Inactive Tariffs

The domestic offshore commerce files of the Federal Maritime Commission contain numerous tariffs filed on behalf of firms which appear to be inactive or no longer operating as common carriers. For the purpose of this notice, a carrier has been deemed to be inactive or no longer operating if it has met the following criteria: (1) Failure of the carrier to respond to a letter, mailed to its last known address, inquiring as to the status of its tariffs, or such letter being returned as undeliverable by the United States Postal Service; and (2) failure of the carrier to amend its tariffs during the proceeding twelve months.

Inactive tariffs reflect inaccurate information and serve no useful purpose. Accordingly, in the absence of a showing of good cause why such action should not be taken, the Commission proposes to cancel all the tariffs of the companies included on the attached list.

Now, therefore it is ordered, That the carriers included on the attached list advise the Federal Maritime Commission's Director, Bureau of Domestic Regulation at 1100 L Street, NW., Washington, DC 20573, in writing, within 30 days after the publication of this Order in the **Federal Register**, of any reason why the Commission should not cancel their respective tariffs;

It is further ordered, That a copy of this Order be sent by certified mail to the last known address of the carriers listed in the attachment;

It is further ordered, That the tariffs of all carriers named in the attached list who fail, within the time allotted, to provide good cause for maintaining these tariffs in an active status will be cancelled;

It is further ordered, That this notice be published in the Federal Register.

This Order is issued pursuant to authority delegated to the Director, Bureau of Domestic Regulation by Section 9.04 of Commission Order No. 1 (Revised) dated November 12, 1981.

Robert G. Drew,

Director, Bureau of Domestic Regulation.

Federal Maritime Commission, Bureau of Domestic Regulation, Office of Carrier Tariffs and Service Contract Operations

Inactive Tariffs

Acronym: **AFI Worldwide Forwarders**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 335 Valencia Street
City: San Francisco
State: Ca 94103
Country: United States of America
Name Number: 000148

Acronym: **American Kings, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 1412 N.W. 82nd Avenue
City: Miami
State: FL 33126
Country: United States of America
Name Number: 006768

Acronym: **American Marine Lines Co., Inc.**
DBA: NA.
Person Types: Ocean common carrier (vessel operating)
Street: 11 Broadway, Suite 1715
City: New York
State: NY 10004
Country: United States of America
Name Number: 000232

Acronym: **American Vanpac Carriers, Inc.**
DBA: NA.
Person Types: Ocean freight forwarder (independent) non-vessel-operating common carrier
Street: 2114 Macdonald Avenue
City: Richmond
State: CA 94801
Country: United States of America
Name Number: 000245

Acronym: **Americargo International, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier ocean freight forwarder (independent)
Street: 830 Supreme Dr.
City: Bensenville
State: IL 60106
Country: United States of America
Name Number: 000244

Acronym: **Arrowpac, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 2600 Penhorn Avenue and State Hwy 3
City: North Bergen
State: NJ 07047
Country: United States of America
Name Number: 000274

Acronym: **Aurora International Forwarding, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier ocean freight forwarder (independent)
Street: 5060 Shawline Dr
City: San Diego
State: CA 92111
Country: United States of America
Name Number: 000317

Acronym: **Bekins International Lines, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 820 East D Street
City: Wilmington
State: CA 90744
Country: United States of America
Name Number: 000358

Acronym: **Bekins Wide World**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 820 East D Street
City: Wilmington
State: CA 90744
Country: United States of America
Name Number: 000359

Acronym: **Bestway Ocean Express Transport, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 515 River Road
City: Clifton
State: NJ 07014
Country: United States of America
Name Number: 000374

Acronym: **Calif., Hawaii & Samoa Trans. Company, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: Suite 911, 1441 Kapioloni Blvd.
City: Honolulu
State: HI 96814
Country: United States of America
Name Number: 000665

Acronym: **California Manufacturers Freight Association**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 610 South Main Street, Suite 624
City: Los Angeles
State: CA 90014
Country: United States of America
Name Number: 000668

Acronym: **Cambridge International Incorporated**
DBA: NA.

Person Types: Non-vessel-operating common carrier
Street: 355 West Carob
City: Compton
State: CA 90220
Country: United States of America
Name Number: 001810

Acronym: **Cargomatic Express, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 8440 S.W. 107 Avenue, #104
City: Miami
State: Fl 33173
Country: United States of America
Name Number: 006825

Acronym: **Caribbean Bulk Services, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: G.P.O. Box 4811
City: San Juan
State: 00936
Country: United States of America
Name Number: 000704

Acronym: **Caribbean Express Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: P.O. Box 7573 Barrio Obrero Station
City: Santurce
State: PR 00916
Country: United States of America
Name Number: 002604

Acronym: **Caribbean Trailer Transport Corporation**
DBA: NA.
Person Types: Ocean common carrier (vessel operating)
Street: BOX 8619
City: St Thomas
State: 00801
Country: U.S. Virgin Islands
Name Number: 000713

Acronym: **Central Alaska Marine Lines, Inc.**
DBA: NA.
Person Types: Ocean common carrier (vessel operating)
Street: 745 S. Orchard
City: Seattle
State: WA 98108
Country: United States of America
Name Number: 000732

Acronym: **Centurion Consolidation Company**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 96–1407 Waihona Place
City: Pearl City
State: HI 96782
Country: United States of America
Name Number: 000733

Acronym: **Century Marine, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 142–82 Rockaway Boulevard
City: Jamaica
State: NY 11434
Country: United States of America
Name Number: 000742

Acronym: **Combined Hawaiian Express**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 3689 Bandini Blvd.
City: Los Angeles
State: CA 90023
Country: United States of America
Name Number: 000773

Acronym: **Container Marine Transport Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 50 Oak Street
City: East Rutherford
State: NJ 07073
Country: United States of America
Name Number: 000814

Acronym: **Container Moving International, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 5060 Shawline drive
City: San Diego
State: CA 92111
Country: United States of America
Name Number: 000815

Acronym: **Continental Forwarders, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 350 Broadway
City: New York
State: NY 10013
Country: United States of America
Name Number: 000818

Acronym: **Coral Freight Consolidators of Guam**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 26 15th Street
City: San Diego
State: CA 92101
Country: United States of America
Name Number: 002605

Acronym: **Crescent City Marine Ways & Dry Dock Co., Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: Suite 1480 700 N.E. Multnomah St.
City: Portland
State: OR 97232
Country: United States of America
Name Number: 000839

Acronym: **Crossroads Freight Systems, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 1801 Hunter St.
City: Los Angeles
State: CA 90021
Country: United States of America
Name Number: 000843

Acronym: **Dansk Steamship Lines**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 1 World Trade Center
City: Port of Sacramento, West Sacramento
State: CA 95691
Country: United States of America
Name Number: 000912

Acronym: **Dean Forwarding Company, Inc.**
DBA: D.F. Container Lines Dean Worldwide
Person Types: Non-vessel-operating common carrier Ocean freight forwarder (independent)
Street: 5252 Argosy drive P.O. Box 1412
City: Huntington Beach
State: CA 92649
Country: United States of America
Name Number: 000920

Acronym: **Dewitt Freight Forwarding**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: P.O. Box 82476
City: San Diego
State: CA 92138
Country: United States of America
Name Number: 000932

Acronym: **Durion Freight Lines, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: Universal American 1860 Ala Moana Blvd, Suite 706
City: Honolulu
State: HI 96815
Country: United States of America
Name Number: 005701

Acronym: **Eastern Forwarding International, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: P.O. Box 7450
City: Baltimore
State: MD 21227
Country: United States of America
Name Number: 001223

Acronym: **Express Forwarding and Storage Co., Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 19 Rector Street
City: New York

State: NY 10006
Country: United States of America
Name Number: 001270

Acronym: **General Transpac Systems**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 100 California Street
City: San Francisco
State: CA 94111
Country: United States of America
Name Number: 006831

Acronym: **Global Maine, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: P.O. Box 999, Route 25
City: Middle Island
State: NY 11953
Country: United States of America
Name Number: 002606

Acronym: **Hawaiian-Pacific Freight Forwarding**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: P.O. Box 900
City: Long Beach
State: CA 90801
Country: United States of America
Name Number: 002600

Acronym: **Higa Fast Pac, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 1460 Park Avenue
City: Emeryville
State: CA 94608
Country: United States of America
Name Number: 001441

Acronym: **Home-Pack Transport, Inc.**
DBA: NA.
Person Types: Ocean freight forwarder (independent) Non-vessel-operating common carrier
Street: 57–48 49th St
City: Maspeth
State: NY 11378
Country: United States of America
Name Number: 001446

Acronym: **Imperial Van Lines International, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 2805 Columbia Street
City: Torrance
State: CA 90503
Country: United States of America
Name Number: 001325

Acronym: **Imperial Van Lines, Inc. of California**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 2805 Columbia Street
City: Torrance
State: CA 90503
Country: United States of America
Name Number: 006838

Acronym: **Inter-American Moving Services, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 3601 N.W. 55th Street
City: Miami
State: FL 33142
Country: United States of America
Name Number: 002770

Acronym: **International Export Packers, Inc.**
DBA: NA.
Person Types: Ocean freight forwarder (independent) Non-vessel-operating common carrier
Street: 4600 Eisenhower Avenue
City: Alexandria
State: VA 22304
Country: United States of America
Name Number: 001361

Acronym: **Island Freight Lines**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: P.O. Box 707
City: Orange
State: CA 92666
Country: United States of America
Name Number: 006839

Acronym: **Ivaran Lines**
DBA: Ivaran Agencies, Inc.
Person Types: Ocean common carrier (vessel operating)
Street: One Exchange Plaza
City: New York
State: NY 10006
Country: United States of America
Name Number: 005940

Acronym: **Ivory Forwarding, Inc.**
DBA: NA
Person Types: Non-vessel-operating common carrier
Street: 5601 Corporate Way
City: West Palm Beach
State: FL 33407
Country: United States of America
Name Number: 001394

Acronym: **Jensen Associates Inc.**
DBA: NA
Person Types: Non-vessel-operating common carrier
Street: 353 South Santa Fe Ave.
City: Los Angeles
State: CA 90013
Country: United States of America
Name Number: 001411

Acronym: **Karevan, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 230 West Warner Ave.
City: Santa Ana
State: CA 92705
Country: United States of America
Name Number: 001464

Acronym: **Kingpak, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: P.O. Box 18298
City: Wichita
State: KS 67218
Country: United States of America
Name Number: 006843

Acronym: **La Rosta Del Monte Express, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 5132 N.W. 17th Avenue
City: Miami
State: FL 33142
Country: United States of America
Name Number: 001588

Acronym: **Maritime Company of the Pacific**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 1441 Kapiolani Blvd., Suite 905–A
City: Honolulu
State: HI 96814
Country: United States of America
Name Number: 001671

Acronym: **Medina Shipping Co., Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 720 Broadway
City: Newark
State: NJ 07104
Country: United States of America
Name Number: 001698

Acronym: **Mercantile Freight Service, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 2280 Alahao Place
City: Honolulu
State: HI 96819
Country: United States of America
Name Number: 001703

Acronym: **Merchants International, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 623 South Pickett Street
City: Alexandria
State: VA 22304
Country: United States of America
Name Number: 001704

Acronym: **Mercury International Forwarders Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 820 East "D" Street
City: Wilmington

State: CA 90744
Country: United States of America
Name Number: 001816

Acronym: **Merit Container Express, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: P.O. Box 2712
City: Trenton
State: NJ 08607
Country: United States of America
Name Number: 001707

Acronym: **Meteoro Express, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: P.O. Box 522412
City: Miami
State: FL 33152
Country: United States of America
Name Number: 001716

Acronym: **Mighal International Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 361 Swift Avenue
City: South San Francisco
State: CA 94080
Country: United States of America
Name Number: 001723

Acronym: **Milne International, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 6689 Owens Drive
City: Pleasanton
State: CA 94566
Country: United States of America
Name Number: 001725

Acronym: **Monti Moving & Storage, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 925 Bergen Street
City: Brooklyn
State: NY 11238
Country: United States of America
Name Number: 001735

Acronym: **Movers' & Warehousemen's Assoc. of Am., Inc.**
DBA: NA.
Person Types: Foreign Conference Agreement
Street: 1001 North Highland Street
City: Arlington
State: VA 22201
Country: United States of America
Name Number: 003014

Acronym: **Mudanza Boulevard & Storage, Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 1494 Southern Boulevard
City: Bronx
State: NY 10460
Country: United States of America
Name Number: 001742

Acronym: **Mundanzas Sierra Inc.**
DBA: NA.
Person Types: Non-vessel-operating common carrier
Street: 1708 Summit Avenue
City: Union City
State: NJ 07097
Country: United States of America
Name Number: 001743

Acronym: **Nauru Pacific Line**
DBA: NA.
Person Types: Controlled Carrier
Street: 80 Collins Street
City: Melbourne, Victoria
State:
Country: Australia
Name Number: 001503

Acronym: **Negron Moving Express**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 537 Court Street
City: Brooklyn
State: NY 11231
Country: United States of America
Name Number: 001534

Acronym: **P.R.V.I. Consolidators Corp.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 515 Gardner Ave.
City: Brooklyn
State: NY 11222
Country: United States of America
Name Number: 000962

Acronym: **Pacific Marine Lines, Inc.**
DBA: NA.
Person Types: Ocean Common Carrier (Vessel Operating)
Street: Pier 40
City: Honolulu
State: HI 96819
Country: United States of America
Name Number: 006854

Acronym: **Pan American Express Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 2612 W. Division Street
City: Chicago
State: IL 60622
Country: United States of America
Name Number: 000985

Acronym: **Perfect Pak Company**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 2722 Eastlake Avenue East, Suite 220
City: Seattle
State: WA 98102
Country: United States of America
Name Number: 001006

Acronym: **Poppy Food Company**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 814 East Temple
City: Los Angeles
State: CA 90012
Country: United States of America
Name Number: 001028

Acronym: **Puerto Rico Express, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: P.O. Box 4099, Garden Station
City: Bayanion
State: PR 00620
Country: United States of America
Name Number: 002599

Acronym: **Puget Sound Freight Lines**
DBA: NA.
Person Types: Ocean Common Carrier (Vessel Operating)
Street: P.O. Box 24526
City: Seattle
State: WA 98124
Country: United States of America
Name Number: 001044

Acronym: **Pyramid International Forwarding, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 479 South Airport Boulevard
City: South San Francisco
State: CA 94080
Country: United States of America
Name Number: 001045

Acronym: **Rainbow Express Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: P.O. Box 3980
City: Carolina
State: PR 00628
Country: United States of America
Name Number: 000856

Acronym: **Reliance Forwarding Corporation**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 67 Kings Highway
City: Maple Shade
State: NJ 08052
Country: United States of America
Name Number: 000867

Acronym: **Republic Shipping Line**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 330 Biscayne Blvd., Suite 1002
City: Miami
State: FL 33132
Country: United States of America
Name Number: 000869

Acronym: **Richardson Forwarding Co.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 992 E. Artesia Boulevard

City: Long Beach
State: CA 90805
Country: United States of America
Name Number: 000874

Acronym: **Rivergate Shipping, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 1117 Pinero Avenue
City: Puerto Nuevo, San Juan
State: PR 00920
Country: United States of America
Name Number: 006857

Acronym: **Robert Harbin**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: P.O. Box 2177
City: Upland
State: CA 91786
Country: United States of America
Name Number: 001574

Acronym: **Royal Hawaiian Forwarding**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 14300 East 183rd Street
City: La Palma
State: CA 90623
Country: United States of America
Name Number: 000885

Acronym: **Sail Puerto Rico**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 6821 Fulton St.
City: Houston
State: TX 77022
Country: United States of America
Name Number: 001049

Acronym: **San Lorenzo Express Corporation**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 2556 W. Fullerton Avenue
City: Chicago
State: IL 60647
Country: United States of America
Name Number: 001069

Acronym: **Sause Bros. Ocean Towing Co., Inc.**
DBA: NA.
Person Types: Ocean Common Carrier (Vessel Operating)
Street: 1480 Lloyd Building, 700 N.E. Multnomah Street
City: Portland
State: OR 97232
Country: United States of America
Name Number: 001076

Acronym: **Sea Fast Shipping, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 1825 Sharon Place
City: San Marino
State: CA 91108
Country: United States of America
Name Number: 001092

Acronym: **Sea Trailers Express, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 4715 N.W. 72nd Ave.
City: Miami
State: FL 33166
Country: United States of America
Name Number: 001137

Acronym: **Seafreight Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 720 Tonnelle Avenue
City: Jersey City
State: NJ 07307
Country: United States of America
Name Number: 001106

Acronym: **Security Forwarders, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 26 Third Street
City: San Francisco
State: CA 94103
Country: United States of America
Name Number: 001126

Acronym: **Senko Container Line**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 45 John Street, Suite 605
City: New York
State: NY 10038
Country: United States of America
Name Number: 001129

Acronym: **Star Freight**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 1299 Old Bayshore Highway, Suite 117
City: Burlingame
State: CA 94010
Country: United States of America
Name Number: 001181

Acronym: **Star Line, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 1441 Kapiolani Blvd., Suite 209
City: Honolulu
State: HI 96814
Country: United States of America
Name Number: 001183

Acronym: **Storage & Consolidators, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: P.O. Box 10130, Caparra Heights Station
City: Rio Piedras
State: PR 00922
Country: United States of America
Name Number: 001192

Acronym: **Thru-Container International, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: One Park Way Drive P.O. Box 1147
City: Hammond
State: LA 70404
Country: United States of America
Name Number: 006862

Acronym: **Town International Forwarding, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: P.O. Box 14607
City: Austin
State: TX 78761
Country: United States of America
Name Number: 000544

Acronym: **Trans-Caribbean Moving & Shipping Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 4466 Park Avenue
City: Bronx
State: NY 10457
Country: United States of America
Name Number: 002233

Acronym: **Transcaribbean Consolidated Transport, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 2500–83rd St.—Bldg. 10B
City: North Bergen
State: NJ 07047
Country: United States of America
Name Number: 000574

Acronym: **Transconex, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: P.O. Box 524037
City: Miami
State: FL 23152
Country: United States of America
Name Number: 006861

Acronym: **Tucor Services Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 640 Sacramento St.
City: San Francisco
State: CA 94119
Country: United States of America
Name Number: 000630

Acronym: **West India Industries, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 1314 Texas Avenue
City: Houston

State: TX 77002
Country: United States of America
Name Number: 000098
Acronym: **World Wide Forwarding, Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 455 Lenox Square
City: Jacksonville
State: FL 32205
Country: United States of America
Name Number: 000128
Acronym: **Worldwide Transport Inc.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 63–69 Hook Road
City: Bayonne
State: NJ 07002
Country: United States of America
Name Number: 000129
Acronym: **Y. Higa Enterprises, Ltd.**
DBA: NA.
Person Types: Non-Vessel-Operating Common Carrier
Street: 2150 Nimitz Avenue
City: Honolulu
State: HI 96810
Country: United States of America
Name Number: 000133.

[FR Doc. 87–25717 Filed 11–6–87; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Fleet Financial Group, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 USC 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 27, 1987.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Fleet Financial Group, Inc.*, Providence, Rhode Island; to acquire Fleet Real Estate Funding Corp., Columbia, South Carolina, and thereby engage in mortgage origination and servicing activities pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 4, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–25864 Filed 11–6–87; 8:45 am]
BILLING CODE 6210–01–M

Henning Bancshares, Inc., et al.; Applications to Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 27, 1987.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Henning Bancshares, Inc.*, Henning, Minnesota; to engage *de novo* in making and servicing mortgage, consumer finance, and commercial loans pursuant to § 225.25(b)(1) of the Board's Regulation Y. This activity will be conducted in the City of Henning, Minnesota, and the surrounding area within an approximately 20 mile radius.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Brookwood, Inc.*, Columbia, Missouri; to engage directly in lending activities pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 4, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–25865 Filed 11–6–87; 8:45 am]
BILLING CODE 6210–01–M

Jon R. Lindeman; Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 24, 1987.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Jon R. Lindeman*, Albert Lea, Minnesota; to acquire 75 percent, and Dorothy R. Lindeman, Glencoe, Minnesota, to acquire 25 percent of the voting shares of Keewatin Bancorporation, Inc, Keewatin, Minnesota, and thereby indirectly acquire First National Bank of Keewatin, Keewatin, Minnesota.

Board of Governors of the Federal Reserve System, November 4, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25866 Filed 11-6-87; 8:45 am]

BILLING CODE 6210-01-M

National Bancshares of Waupun, Inc. et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 27, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *National Bancshares of Waupun, Inc.*, Waupun, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of The National Bank of Waupun, Waupun, Wisconsin.

2. *NCB Corp.*, Culver, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of NorCen Bank, Culver, Indiana.

3. *S. & H Holdings, Inc.*, Iroquois, Illinois; to acquire 51 percent of the voting shares of Central Bank, Ashkum, Illinois.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Heartland Bancshares, Inc.*, Fairway, Kansas; to become a bank holding company by acquiring 98 percent of the voting shares of Turner Bancshares Inc., Kansas City, Kansas, and thereby indirectly acquire Kaw Valley Bank & Trust Company, Kansas City, Kansas.

2. *Security Corporation*, Duncan, Oklahoma; to acquire 24.97 percent of the voting shares of American National Bank of Duncan, Duncan, Oklahoma. Comments on this application must be received by November 24, 1987.

Board of Governors of the Federal Reserve System, November 4, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25867 Filed 11-6-87; 8:45 am]

BILLING CODE 6210-01-M

Thomas Drilling Co.; Formation of, Acquisition by, or Merger of Bank Holding Companies, and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 24, 1987.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Thomas Drilling Company*, Duncan, Oklahoma; to become a bank holding company by acquiring 47.2 percent of the voting shares of American National Bank of Duncan, Duncan, Oklahoma; 32.26 percent of the voting shares of Exchange Financial Corporation, Ardmore, Oklahoma, and thereby indirectly acquire Exchange National Bank and Trust Co., Ardmore, Oklahoma; and 20.1 percent of the voting shares of Charter Bancshares, Inc., Oklahoma City, Oklahoma, and thereby indirectly acquire Charter National Bank, Oklahoma City, Oklahoma.

In connection with this application, Applicant also proposes to engage *de novo* in making and servicing loans and other extensions of credit pursuant to § 225.25(b)(1) of the Board's Regulation Y. This activity will be conducted in the State of Oklahoma.

Board of Governors of the Federal Reserve System, November 4, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25868 Filed 11-6-87; 8:45 am]

BILLING CODE 6201-01-M

FEDERAL TRADE COMMISSION

Trade Regulation, Premerger Notification; Information Collection Requirement; Fluid Milk Processing Industry

AGENCY: Federal Trade Commission.

ACTION: Application to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501-3518, for clearance of the Dairy Merger Reporting Program.

SUMMARY: The FTC intends to require advance notification of certain types of dairy mergers that may raise antitrust concerns. Report forms that must be filed with the agency before covered transactions are consummated will permit antitrust review at a time when effective remedial measures may be taken, where necessary.

The FTC required reports on mergers and acquisitions by fluid milk processors from 1974 through 1981 to assist the Commission in carrying out its law enforcement responsibilities under section 7 of the Clayton Act and section 5 of the Federal Trade Commission Act. Following a review of the program and opportunity for public comment, the FTS has decided to reinstate the program with changes that will reduce its reporting burden. These changes should reduce the number of reportable mergers and acquisitions and will reduce the amount of information required concerning each reported transaction.

Under the special reporting authority of section 6 of the Federal Trade Commission Act, 15 U.S.C. 46, the Commission intends to require that companies processing more than 300 million pounds of Class I milk annually to report any acquisition of covered facilities that are within 250 miles of the acquirer's facilities or of a company that had product sales or production of 50 million pounds or more in any of the preceding three years (excluding home delivery in each case). Transactions that are reportable under the Hart-Scott-Rodino Act will be exempt from any requirements under the Dairy Merger Reporting Program.

The Supporting Statement submitted to OMB for this request estimates the reporting burden of this program to be 1000 hours or less. Based on information supplied by industry members in 1982, it appears that the time required to complete the forms varies from 15 to 90 hours, or about 40 hours on average. Based on previous experience with the program and the 1982 comments, no more than ten reports per year are expected. This figure has been rounded up to ensure that the estimate is not understated.

DATE: Comments on this application may be submitted on or before December 9, 1987.

ADDRESS: Send comments to Don Arbuckle, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503. Copies of this application may be obtained from: Public Reference Branch, Room 130, Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Patricia Bremer, Attorney, Bureau of Competition, Federal Trade Commission, Washington, DC 20580, (202) 326-2628.

James E. McCarty,

Acting General Counsel.

[FR Doc. 87-25844 Filed 11-6-87; 8:45 am]

BILLING CODE 6750-01-M

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules; General Instrument Corp. et al

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 09/01/87 AND 09/15/87

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
(1) Robert L. Parker, General Instrument Corporation, Optoelectronics Division of General Instrument Corp.	87-2241	09/01/87
(2) W. Galen Weston, Pentair, Inc., Port Huron Paper Corporation	87-2128	09/02/87
(3) Outlet Communications, Inc., Metropolitan Broadcasting Corporation, Metropolitan Broadcasting Corporation	87-2251	09/02/87
(4) Gulf & Western Inc., Household International, Inc., Household Finance Corporation, II	87-2254	09/02/87
(5) Smith Industries Public Limited Company, Lear Siegler Holdings Corp., Lear Siegler Instrument and Avionic Systems Corp	87-2043	09/03/87
(6) Brierley Investments Limited, Quaker State Corporation, Quaker State Corporation	87-2115	09/03/87
(7) Les Entreprises de J. Armand Bombardier Ltee, Thyssen Aktiengesellschaft, The Budd Company and Transit America, Inc	87-2157	09/03/87
(8) J.M. Huber Corporation, Handschy Industries, Inc., Handschy Industries, Inc	87-2184	09/03/87
(9) Meshulam Riklis, Eli Lilly and Company, Eli Lilly and Company	87-2200	09/03/87
(10) Combustion Engineering, Inc., Metallgesellschaft AG, Metallgesellschaft AG	87-2215	09/03/87
(11) Garden State Newspapers, Inc., The Anderson Walters Trust, The Johnstown Tribune Publishing Company	87-2228	09/03/87
(12) LEP Group plc, Profit Systems Inc., Profit Systems Inc	87-2239	09/03/87
(13) John Labatt Limited, Sundor Group Inc., Latrobe Brewing Company/Beverage Imports, Inc	87-2243	09/03/87
(14) Ametek, Inc., Tex-Tech Holdings, Inc., Tex-Tech Holdings, Inc	87-2258	09/03/87
(15) McCown De Leeuw & Co., Boise Cascade Corporation, Boise Cascade Corporation	87-2263	09/03/87
(16) The Clayton Dubilier Private Equity Fund II Ltd. Partn, Donald R. Brattain, Barefoot Grass Lawn Service, Inc., Delpha Lawn, Inc	87-2266	09/03/87
(17) Tandy Corporation, Citicorp, Citibank (Maryland), N.A	87-2281	09/03/87
(18) Subaru of America, Inc., Automotive Imports, Inc., d/b/a Subaru Inter-Mountain, Automotive Imports, Inc., d/b/a Subaru Inter-Mountain	87-2283	09/03/87
(19) William Collins PLC, The News Corporation Limited, Harper Holdings Corporation	87-2284	09/03/87
(20) John M. Harbert III, Allied-Signal Inc., Combustion Power Co. & GWF Power Systems Co., Inc	87-2285	09/03/87
(21) CRH PLC, William H. Lane, Big River Industries, Inc., Bayou Ash, Inc., Big River	87-2290	09/03/87
(22) Atari Corporation, Wilfred Schwartz, The Federated Group, Inc	87-2295	09/03/87
(23) Fletcher Challenge Limited, George S. Schuchart, Wright Schuchart, Inc	87-2298	09/03/87
(24) Pilkington Brothers plc, Ronald O. Perelman, eight subsidiaries	87-2095	09/04/87
(25) David H. Murdock, Alleghany International Alleghany International	87-2159	09/04/87
(26) Olympia & York Developments Limited, Santa Fe Southern Pacific Corporation, Santa Fe Southern Pacific Corporation	87-2209	09/04/87
(27) Jacobs Engineering Group, Inc., Santa Fe Southern Pacific Corporation, Robert E. McKee, Inc	87-2257	09/04/87
(28) HealthEast, American Healthcare Management, Inc., American Healthcare Management, Inc	87-2272	09/04/87
(29) Roxboro Investments (1976) Ltd., H.H. Robertson Company, H.H. Robertson Company	87-2234	09/08/87

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 09/01/87 AND 09/15/87—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
(30) James W. Wilson, Jr., Grand Metropolitan Public Limited Company, Diversified Products Corp., Diversified Products, Ltd	87-2259	09/08/87
(31) First Executive Corporation, Medco Containment Services, Inc., Medco Containment Services, Inc	87-2311	09/08/87
(32) Martin J. Wygod, Medco Containment Services, Inc., Medco Containment Services, Inc	87-2312	09/08/87
(33) Snyder Oil Partners L.P., Conquest Exploration Company, Thomasville Properties	87-2165	09/09/87
(34) Chicago Pacific Corporation, The Gunlocke Company, The Gunlocke Company	87-2196	09/09/87
(35) PaineWebber Income Properties Eight Ltd. Partnership, Marriott Corporation, Marriott Suites Hotel	87-2278	09/09/87
(36) The General Electric Company, p.l.c., Lear Siegler Holdings Corp., Lear Siegler Astronics & Developmental Sciences Corps	87-2214	09/10/87
(37) PACCAR Inc., Norcliffe Company, Norcliffe Company	87-2291	09/10/87
(38) Ralph J. Robert, Heritage Communications, Inc., Rollins Cablevision of Philadelphia, Inc	87-2168	09/11/87
(39) Cablevision Systems Corporation (Charles F. Dolan, UPE), Adams-Russell Co., Inc., Adams-Russell Co., Inc	87-2187	09/11/87
(40) BASF Aktiengesellschaft, Borden, Inc., Borden, Inc	87-2219	09/11/87
(41) Brierley Investments Limited, Triton Energy Corporation, Triton Energy Corporation	87-2250	09/11/87
(42) Alan Evelyn Clore, Rorer Group Inc., Rorer Group Inc	87-2265	09/11/87
(43) Foote, Cone & Belding Communications, Inc., Measured Marketing Services, Inc., Krupp/Taylor USA	87-2273	09/11/87
(44) Measured Marketing Services, Inc., Foote, Cone & Belding Communications, Inc., Krupp/Taylor FCB, Inc	87-2274	09/11/87
(45) Saratoga Partners, L.P., Daniel Floeck, Sr., Hi-Lo Auto Supply Companies, Inc	87-2293	09/11/87
(46) John A. Kaneb, Astroline Corporation, Astroline Corporation	87-2296	09/11/87
(47) Bechtel Investments Inc., Cost Plus, Inc., Cost Plus, Inc	87-2300	09/11/87
(48) The Northwestern Mutual Life Insurance Company, Pierce Manufacturing Inc., Pierce Manufacturing Inc	87-2302	09/11/87
(49) The Marcade Group, Inc., Europe Craft Imports, Inc., Europe Craft Imports, Inc	87-2319	09/11/87
(50) Servico, Inc., Aluminum Company of America, Wilpen, Inc	87-2203	09/13/87
(51) British & Commonwealth Holdings, PLC, Mercantile House Holdings plc, Mercantile House Holdings plc	87-2047	09/14/87
(52) Hawley Group Limited, ADT, Inc., ADT, Inc	87-2221	09/14/87
(53) General Motors Corporation, M/A-Com, Inc., M/A-Com Telecommunications, Inc	87-2230	09/14/87
(54) Hawley Group Limited, ADT, Inc., ADT, Inc	87-2238	09/14/87
(55) Wolseley plc, Shapco Inc., Familian Corp	87-2242	09/14/87
(56) Cookson Group plc, Boruch B. Frusztajer, Polyclad Laminates, Inc	87-2271	09/14/87
(57) SmithKline Beckman Corporation, National Patent Development Corporation, International Hydron Corporation	87-2277	09/14/87
(58) Richard J. Howling, National Medical Enterprises, Inc., National Medical Enterprises, Inc	87-2282	09/14/87
(59) South Timbers Limited Partnership, Royal Dutch Petroleum Company, Shell Oil Company	87-2317	09/14/87

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 09/01/87 AND 09/15/87—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
(60) Centex Corporation, Crosland Homes, Inc., Crosland Homes, Inc	87-2343	09/14/87
(61) West Timbers Limited Partnership, Royal Dutch Petroleum Company, Shell Oil Company	87-2350	09/14/87
(62) The Henley Group, Inc., Itel Corporation, Itel Corporation	87-2229	09/15/87
(63) Borden, Inc., Laura Scudder's, Inc., Laura Scudder's, Inc	87-2269	09/15/87
(64) Philips Industries, Inc., Dearborn Fabricating and Engineering Corporation, Dearborn Fabricating and Engineering Corporation	87-2327	09/15/87
(65) Lowe Howard-Spink & Bell plc, GDL Inc., GDL Inc	87-2340	09/15/87

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580, (202) 326-3100.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 87-25843 Filed 11-6-87; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87F-0183]

Ciba-Geigy Corp.; Amended Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the filing notice for a food additive petition filed by Ciba-Geigy Corp. to provide for the safe use of tris (2, 4-di-*tert*-butylphenyl) phosphite as an antioxidant and stabilizer in poly (methylpentene) for use in contact with food. The previous filing notice is being amended to specify use of the additive in 4-methylpentene-1 copolymers instead of poly (methylpentene).

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 2, 1987 (52 FR 25075), FDA published a notice that a petition (FAP 7B3999) had been filed by Ciba-Geigy Corp. proposing that 21 CFR 178.2010 *Antioxidants and/or stabilizers for polymers* be amended to provide for the safe use of tris (2, 4-di-*tert*-butylphenyl)phosphite as an antioxidant and thermal stabilizer in poly(methylpentene) intended to contact food. Subsequently, Ciba-Geigy amended the petition to provide for expanded use of tris(2, 4-di-*tert*-butylphenyl)phosphite as an antioxidant and stabilizer only in 4-methylpentene-1 copolymers complying with 21 CFR 177.1520(c), item 3.3. The expanded uses include an increased use level and increased temperature of use (including microwave use).

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c)

Dated: October 28, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-25834 Filed 11-6-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87F-0319]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and drug Administration (FDA) is announcing that the Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 3,3'-[{2,5-dimethyl-1,4-phenylene)bis[iminocarbonyl(2-hydroxy-3,1-naphthalenediyl)azo]]bis[4-methylbenzoic acid],bis(2-chloroethyl) ester as a colarant for food-contact polymers.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B4026) has been filed by the Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that § 178.3297 *Colorants for polymers* (21 CFR 178.3297) be amended to provide

for the safe use of 3,3'-[(2,5-dimethyl-1,4-phenylene)bis[iminocarbonyl(2-hydroxy-3,1-naphthalenedyl)azo]]bis[4-methylbenzoic acid], bis(2-chloroethyl) ester as a colorant for food-contact polymers.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: October 20, 1987.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-25835 Filed 11-6-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86N-0398]

International Drug Scheduling; Convention of Psychotropic Substances; Barbiturate Substances, Stimulant Substances, Certain Non-Barbiturate Sedatives

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing interested persons with the opportunity to submit written comments and to request an informal public meeting concerning recommendations by the World Health Organization (WHO) to impose international manufacturing and distributing restrictions, pursuant to international treaties, on certain drug substances. The comments received in response to this notice and/or public meeting will be considered in preparing the U.S. position on these proposals for a meeting of the Commission on Narcotic Drugs (CND) in Vienna, Austria, in February 1988. This notice is issued pursuant to the Controlled Substances Act (CSA) (21 U.S.C. 811 et seq.).

DATE: Comments by December 9, 1987.

ADDRESS: Written comments and requests for a public meeting to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nicholas P. Reuter, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION:

I. Background

The United States is a party to the 1971 Convention on Psychotropic Substances (the Convention). Article 2 of the Convention provides that if WHO has information about the substance which in its opinion may require international control or change in such control, it shall so notify the Secretary-General of the United Nations and provide the Secretary-General with information in support of its opinion. Section 201(d)(2)(A) of the CSA (21 U.S.C. 811(d)(2)(A)) provides that when the United States is notified under Article 2 of the Psychotropic Convention that the CND proposes to decide to add a drug or other substance to one of the schedules of the Convention, transfer a drug or substance from one schedule to another, or delete it from the schedules, the Secretary of State must transmit the notice to the Secretary of Health and Human Services (HHS). The Secretary of HHS must then publish the notice in the Federal Register and provide opportunity for interested persons to submit comments to assist HHS in preparing scientific and medical reconsiderations concerning the international scheduling of the drug or substance.

A. Non-Barbiturate Sedatives

By note NAR/CL.7/1985 of December 5, 1985, the Secretary-General of the United Nations requested data and information concerning the abuse potential, actual abuse, and medical usefulness of 25 non-barbiturate, sedative drug substances. In the Federal Register of March 5, 1986 (51 FR 7639), FDA requested interested persons to submit data and information to be considered in the preparation of a U.S. response to the United Nations request. This information was used by a WHO review group to select substances for further evaluation. Accordingly, the WHO interview group prepared comprehensive reports on six substances: acecarbromal, carbromal, chlomethiozole, chlorhexadol, methylpentynol, and triclofos. The Expert Committee on Drug Dependence (ECDD), the WHO body responsible for scheduling recommendations, used these reports to evaluate the need for the international control of these substances. The 24th session of the ECDD, which met April 9 through 16, 1987, decided not to recommend scheduling any of the six substances at that time. Thus, the United States is not required to take any further action on these substances.

B. Secobarbital

Secobarbital is a barbiturate drug substance which is currently controlled under schedule III of the Convention on Psychotropic Substances. In 1986, the Secretary-General of the United Nations notified the Secretary of HHS (see NAR/CL.9/1986, DND 411/1(2) WHO/ECDD 24, dated August 15, 1986) that WHO was evaluating a proposal under Article 2, paragraph 1 of the Psychotropic Convention, to transfer secobarbital from schedule III to schedule II of the Convention. This proposal was initiated by a request from the United States Government dated May 29, 1986. As required by the CSA (21 U.S.C. 811(d)(2)(A)), a notice was published in the Federal Register of October 27, 1986 (51 FR 37980) that provided an opportunity for interested parties to submit information to be considered by WHO in evaluating the proposal. The United States used the information received as a result of the Federal Register notice, and other material, to prepare a scientific and medical package. The United States forwarded the package to WHO. A copy of the information the United States provided is on file in the Dockets Management Branch (address above), under Docket No. 86N-0398.

The 24th ECDD considered the information available and recommended that secobarbital be transferred from schedule III to schedule II of the Psychotropic Convention. The full text of the notification from the Secretary-General of the United Nations is provided below in section II of this notice. Section 201(d)(2)(B) of the CSA (21 U.S.C. 811(d)(2)(B)) requires the Secretary of HHS, after receiving a notification proposing scheduling to publish a notice in the Federal Register, to provide the opportunity for interested parties to submit information and comments on the proposed scheduling action.

C. Methamphetamine Racemate

Methamphetamine racemate refers to a racemic (50:50) mixture of the optical isomers dextro-(+) and levo-(−) methamphetamine. The individual optical isomers of methamphetamine, (+)-methamphetamine, and (−)-methamphetamine- are specifically controlled under schedule II of the Convention. However, methamphetamine racemate is not specifically scheduled under the Convention. As the notification points out, the ECDD has recommended the specific scheduling of methamphetamine racemate to avoid possible

misinterpretation. (Note: Pursuant to 21 CFR 1308.12(d), methamphetamine, its salts, isomers, and salts of its isomers, are controlled under schedule II of the CSA.)

II. United Nations Notifications

The formal United Nations notifications which identify the two drug substances and explain the basis for the recommendations are reproduced below.

A. Notification on Secobarbital

Reference:
NAR/CL.11/1987
DND 411/1(2) WHO ECDD 24

The Secretary-General of the United Nations presents his compliments to the Secretary of State of the United States of America and has the honour to refer to his note NAR/CL.9/1986 of 15 August 1986 by which he informed the Government of a notification received from the Government of the United States of America pursuant to article 2, paragraph 1, of the Convention on Psychotropic Substances, to the effect that 5-allyl-5-(1-methylbutyl) barbituric acid (hereinafter referred to as secobarbital), which is presently in Schedule III of the Convention, should be transferred from that Schedule to Schedule II of the same Convention.

The Secretary-General also transmitted a copy of that notification to the World Health Organization, in accordance with the provisions of article 2, paragraph 2, of the Convention, for consideration by the Twenty-fourth WHO Expert Committee on Drug Dependence (24th ECDD) in April 1987.

The 24th ECDD examined the notification in question and recommended to the Director-General of WHO that secobarbital should be transferred from Schedule III to Schedule II of the convention on Psychotropic Substances.

In accordance with the provisions of article 2, paragraphs 1 and 4, of the Convention, the World Health Organization has notified the Secretary-General by note dated 22 May 1987 that it is of the opinion that secobarbital should be transferred from Schedule III to Schedule II of the Convention.

The Secretary-General hereby transmits the text of that notification as annex I to the present note, pursuant to article 2, paragraph 2, of the Convention.

The Director-General of the World Health Organization, in connection with this notification, has also submitted advance excerpts from the report of the 24th ECDD which reviewed this substance, *inter alia*, with a view to its possible rescheduling. Relevant excerpts from that report are hereby transmitted as annex II.

In accordance with the provisions of article 2, paragraph 2, of the Convention on Psychotropic Substances, the notifications from Government of the United States and from the World Health Organization will be brought to the attention of the Commission on Narcotic Drugs at its next session in February 1988. Any action or decision taken by the Commission with respect to this notification, pursuant to article 2, paragraph 5, of the Convention, will be notified to States Parties in due course. Article 2, paragraph 5, reads as follows:

The Commission, taking into account the communication from the World Health Organization, whose assessments shall be determinative as to medical and scientific matters, and bearing in mind the economic, social, legal, administrative and other factors it may consider relevant, may add the substance to Schedule I, II, III or IV. The Commission may seek further information from the World Health Organization or from other appropriate sources.

In order to assist the Commission in reaching a decision, it would be appreciated if any economic, social, legal, administrative or other factors the Government may consider relevant to the question of the possible rescheduling of secobarbital could be communicated to the Secretary-General, c/o the Division of Narcotic Drugs, P.O. Box 500, A–1400 Vienna, Austria, by 10 November 1987.

29 July 1987
NAR/CL.11/1987

Annex I

Note dated 22 May 1987 addressed to the Secretary-General by the Director-General of the World Health Organization

The Director-General of the World Health Organization presents his compliments to the Secretary-General of the United Nations and, with reference to his note NAR/CL.9/1986 dated 15 August 1986, has the honour to inform him that the World Health Organization, in conformity with Article 2, paragraph 6 of the Convention on Psychotropic Substances, 1971, has reviewed information pertaining to 5-allyl-5-(1-methylbutyl) barbituric acid, and referred to as secobarbital (INN).

Secobarbital is currently in Schedule III of the Convention on Psychotropic Substances, 1971. Recent evidence indicates a dramatic increase in the illicit traffic of secobarbital as compared to the other barbiturates in Schedule III. This, coupled with the current low therapeutic usefulness of the drug has prompted the Twenty-fourth WHO Expert Group Committee on Drug Dependence to recommend the rescheduling of secobarbital.

Therefore, the World Health Organization recommends that secobarbital be changed from Schedule III to Schedule II of the Convention on Psychotropic Substances, 1971.

NAR/CL.11/1987
Annex II
Page 1

Annex II

Summary of the Recommendations arising out of the 24th Expert Committee on Drug Dependence

The 24th ECDD met at headquarters between 9–16 April 1987. Since the report of this meeting will be published in due course of time in T.R. Series, this paper gives details of the recommendations made to the Director-General of WHO.

[. . . .]

Secobarbital

A notification (NAR/CL.9/1986, DND 411/1(2), WHO/ECDD 24) from the Government of the United States concerning the rescheduling of secobarbital has been transmitted to the Director-General of the World Health Organization pursuant to article 2, paragraph 2 of the Convention on Psychotropic Substances.

Secobarbital is an intermediate acting sedative-hypnotic barbiturate with a high potential for abuse and a high level of actual abuse with demonstrated adverse effects on public health and social well being. The substance is currently controlled under the Convention on Psychotropic Substances, 1971 in Schedule III along with amobarbital, cyclobarbital and pentobarbital, three other intermediate acting sedative-hypnotic barbiturates. Since the original scheduling, the therapeutic usefulness of these drugs has remarkably declined and they have been replaced by more effective drugs. The Committee regards the current therapeutic usefulness of these drugs as low. Recent information from the Secretary-General of the United Nations and Interpol on the international illicit traffic of secobarbital indicate that there has been an increasing problem in several countries with the substance as compared to the other controlled barbiturates. For instance, INTERPOL reports the following seizure patterns:

DOSAGE UNITS

	Secobarbital	Pentobarbital	Amobarbital
1983	1,136,647	60	169
1984	1,718,565	66	20
1985	4,360,304	70	[1] 3,630,019
1986 [2]	1,197,133	118,707	0

[1] This represents seizures of Binoctal and Noctadiol which are preparations which contain both secobarbital and amobarbital. These figures are also contained in those listed under secobarbital.
[2] Preliminary statistics from 36 reporting members.

The problem is particularly acute in Africa and the Near and Middle East.

In addition, the United States reports a large illicit traffic in secobarbital being sold as methaqualone.

Recommendation

There is good evidence from controlled studies in animals and man that secobarbital produces both physical and psychological dependence of a severe nature. There is evidence for a high incidence of actual abuse with attendant public health and social problems. The therapeutic usefulness of the drug is low.

There is evidence of a high and increasing illicit traffic with secobarbital as compared with other barbiturates already controlled in Schedule III of the Convention on Psychotropic Substances. Thus, the Committee recommends that secobarbital be moved from Schedule III to Schedule II of the Convention. The additional control measures associated with this change should permit a more effective control of the illicit traffic with secobarbital.

B. Notification on Methamphetamine Racemate

Reference:
NAR/CL.13/1987
DND 411/1[2] WHO ECDD 24

The Secretary-General of the United Nations presents his compliments to the Secretary of State of the United States of America and has the honour to inform the Government that the World Health Organization, pursuant to article 2, paragraphs 1 and 4, of the Convention on Psychotropic Substances, has notified the Secretary-General by note dated 15 June 1987 that it is of the opinion that (+)–*N, alpha*-dimethylphenetylamine (hereinafter referred to as metamfetamine racemate) should be specifically included in Schedule II of that Convention. The need for such specific inclusion arises from possibly divergent interpretations as to its present control status, if any, under the Convention.

In accordance with the provisions of article 2, paragraph 2, of the Convention, the Secretary-General hereby transmits the text of this notification as annex I to the present note.

The Director-General of the World Health Organization, in connection with this notification, has also submitted advance excerpts from the report of the Twenty-fourth WHO Expert Committee on Drug Dependence (9–16) April 1987) which reviewed, *inter alia*, the status of metamfetamine racemate under the 1971 Convention. The excerpts from that report are hereby transmitted as annex II.

In accordance with the provisions of article 2, paragraph 2, of the Convention on Psychotropic Substances, the notification from the World Health Organization will be brought to the attention of the Commission on Narcotic Drugs at its next session in February 1988. Any action or decision taken by the Commission with respect to this notification, pursuant to article 2, paragraph 5, of the Convention, will be notified to States Parties in due course. Article 2, paragraph 5, reads as follows:

The Commission, taking into account the communication from the World Health Organization, whose assessments shall be determinative as to medical and scientific matters, and bearing in mind the economic, social, legal, administrative and other factors it may consider relevant, may add the substance to Schedule I, II, III or IV. The Commission may seek further information from the World Health Organization or from other appropriate sources.

In order to assist the Commission in reaching a decision, it would be appreciated if any economic, social, legal, administrative or other factors the Government may consider relevant to the question of the possible scheduling of metamfetamine racemate could be communicated to the Secretary-General, c/o the Division of Narcotic Drugs, P.O. Box 500, A–1400 Vienna, Austria, by 10 November 1987.

Annex I

Note dated 15 June 1987 addressed to the Secretary-General by the Director-General of the World Health Organization

The Director-General of the World Health Organization presents his compliments to the Secretary-General of the United Nations and has the honour to inform him that the World Health Organization, in conformity with Article 2, paragraphs 1 and 4 of the Convention on Psychotropic Substances, 1971, has reviewed information pertaining to *(+)-N, alpha*-dimethylphenethylamine, and referred to as metamfetamine racemate.

Metamfetamine racemate meets the criteria of Article 2, paragraph 4(a) of the Convention, and there is sufficient evidence that the substance is, or is likely to be abused so as to constitute a public health and social problem warranting placing it under international control.

Therefore, the World Health Organization recommends that metamfetamine racemate be added to Schedule II of the Convention on Psychotropic Substances, 1971.

Annex II

Summary of the Recommendations arising out of the 24th Expert Committee on Drug Dependence

The 24th ECDD met at headquarters between 9–16 April 1987. Since the report of this meeting will be published in due course of time in T.R. Series, this paper gives details of the recommendations made to the Director-General of WHO.

[. . . . .]

Metamfetamine

The Fourth PPWG (WHO/MNH/PAD/87.2) requested the advice of the ECDD on the status of the racemate of metamfetamine under the Convention on Psychotropic Substances, 1971. The drafters of the Convention placed Amphetamine ((+)-2-amino-1-phenylpropane) and Dexamphetamine ((+)-2-amino-1-phenylpropane) in Schedule II of the 1971 Convention. Thus both the racemate and (+)-isomer were controlled. Subsequently the (−)-isomer was also placed under control. It should be noted that the INN name Amphetamine is defined as the racemate and Dextroamphetamine as the (+)-isomer. On the other hand, the earlier INN name Metamphetamine is defined as the (+)-isomer and the racemate was not specifically named in the schedules. Subsequentlyk, the (−)-isomer of metamfetamine was also controlled. This leaves the control status of the racemate open to possible misinterpretation.

Recommendations

On the basis of the foregoing discussions, the Committee recommends that racemic metamfetamine (+)-N, *alpha*-

dimethylphenethylamine be specifically controlled under Schedule II of the Convention on Psychotropic Substances, 1971. The Committee would like to point out that WHO convened a group of experts to discuss chemical and pharmacological specifications of substances for control under the International Conventions. Their report (MNH/PAD/86.13) clearly delineates procedures for the future handling of isomers. The Expert Committee recommends that these procedures be initiated in all future reviews of substances being considered for control under the international conventions.

III. Discussion

Although WHO has made specific scheduling recommendations for each of the drug substances, the CND is not obliged to follow the WHO recommendations. Options available to the CND include: (1) Acceptance of the WHO recommendations; (2) acceptance of the recommendations to control but control the drug substance in a schedule other than that recommended; or (3) reject the recommendations entirely.

The substances recommended for control under the Conventions, (secobarbital and methamphetamine racemate) are controlled under Schedule II of the CSA. Secobarbital is marketed in the United States; methamphetamine racemate is not. The proposed international drug scheduling actions, if adopted by the CND, will result in no greater degree of control of these substances than current domestic controls. FDA received no specific comments in response to the October 27, 1986, **Federal Register** (51 FR 37980) notice on secobarbital.

FDA, on behalf of the Secretary of HHS, invites interested persons to submit comments on the WHO notice concerning these two drug substances. FDA, in cooperation with the National Institute on Drug Abuse, will consider the comments on behalf of HHS in evaluating the WHO recommendations. Then, pursuant to Section 811(d)(2)(B) HHS will recommend to the Secretary of State what position the United States should taken when voting on the recommendations at the CND meeting in February 1988.

IV. Submission of Comments and Opportunity for Public Meeting

Interested persons may, on or before December 9, 1987, submit to the Dockets Management Branch (address above) written comments regarding this notice. FDA does not plan to hold a public meeting unless requested to do so. If any person believes that, in addition to its written comments, a public meeting would contribute to the development of the U.S. position on any of these two substances, a request for a public meeting and the reasons for such a request should be sent to Nicholas P. Reuter, Office of Health Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, on or before November 24, 1987. The short time period for the submission of comments and requests for a public meeting is needed to assure that DHHS may, in a timely fashion, carry out the required action and be responsive to WHO. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 4, 1987.

George R. White,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-25942 Filed 11-5-87; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting: **Philadelphia District Office**, chaired by Loren Y. Johnson, District Director. The topics to be discussed are health claims on food labels and a general update on current FDA activities.

DATE: Monday, November 23, 1987, 12 m. to 3 p.m.

ADDRESS: Federal Bldg., Rm. 2214–18, 1000 Liberty Ave., Pittsburgh, PA 15222.

FOR FURTHER INFORMATION CONTACT: Theresa Young, Consumer Affairs Officer, Food and Drug Administration, U.S. Customhouse, Room 900, 2nd and Chestnut Street, Philadelphia, PA 19106, 215–597–0837.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: November 2, 1987.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-25836 Filed 11-6-87; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicaid Program; Hearing; Reconsideration of Disapproval of an Oklahoma State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on December 9, 1987 in Dallas, Texas to reconsider our decision to partially disapprove Oklahoma State Plan Amendment 86–20.

Closing Date: Requests to participate in the hearing as a party must be received by the Docket Clerk on or before November 24, 1987.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 300 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594–8261

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to partially disapprove an Oklahoma State Plan Amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether the portion of Oklahoma SPA 86–20 which relates to how the State counts burial contracts as resources when determining Medicaid eligiblity of the aged, blind, and disabled for Medicaid satisfies requirements of section 1902(f) of the Social Security Act. If it does not

meet the requirements of section 1902(f) the State would be subject to the requirements of 1902(a)(10)(A)(i)(II) and 1902()(10)(C)(i)(III) of the Act.

In general, the Medicaid statute requires States to use the eligibility criteria of the Supplemental Security Income (SSI) program in determining Medicaid eligiblity of aged, blind, and disabled individuals and to use the rules of the Aid to Families with Dependent Children (AFDC) program in determining Medicaid eligibility of AFDC-related individuals. (Sections 1902(a)(10(A) and 1902(a)(10)(C)(i)(III) of the Act.) The law also permits States to apply rules affecting aged, blind, and disabled persons that are more restrictive than SSI but no more restrictive that the rules employed under the State's approved January 1, 1972 medical assistance plan. (Section 1902(f) of the Act.) States electing to use more restrictive rules than employed under the SSI program may use rules no more liberal than those used by the SSI program and no more restrictive than those applied under the State's January 1, 1972 Medicaid plan. (See section 1902(f) of the Act and 42 CFR 435.121.)

In SPA 86–20, Oklahoma proposed, as Supplement 5 to Attachment 2.6–A, that "When an applicant elects to make an irrevocable contract or applies for assistance on or after July 1, 1986, the amount of any combination of an irrevocable contract, revocable prepaid burial contract/trust and the face value of life insurance policies in excess of $6,000 will render the individual ineligible for Medicaid."

Under SSI policy, a resource is property or an interest in real property or personal property which the individual owns and which is available for disposition. If an individual cannot dispose of the property, it is not a resource. If the individual's access to property is restricted, it is not a resource. As such, funds held in irrevocable burial contracts are generally not considered resources for SSI purposes.

Oklahoma's proposal would permit a maximum exclusion of $6,000 for an irrevocable contract. Since this is more restrictive than SSI policy, the State was asked to establish that it is not more restrictive than the policy in the State's 1972 State plan. In its response, the State indicated that irrevocable contracts for prepaid funeral benefits were first addressed in State law in 1980, and policy on such contracts was implemented by the State effective September 1, 1980. Because this response did not describe the treatment of funds held in irrevocable burial contracts under the State's January 1, 1972 State plan, we were unable to conclude that the amendment was not more restrictive than the 1972 rules. In its September 25, 1987 letter requesting reconsideration, Oklahoma claims that under its 1972 plan these funds would have been counted as income since there was no exemption for them. If the State can substantiate this claim, the disapproved portion of the amendment would be approvable.

The notice to Oklahoma announcing an administrative hearing to reconsider our partial disapproval of its State plan amendment reads as follows:

Mr. Robert Fulton,
Director, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, Oklahoma 73125

Dear Mr. Fulton: This is to advise you that your request for reconsideration of the decision to disapprove Oklahoma State Plan Amendment 86–20 was received on October 5, 1987.

Part of Oklahoma SPA 86–20 relates to how the State counts burial contracts as resources when determining eligibility for Medicaid. You have requested a reconsideration of whether this portion of the plan amendment conforms to the requirements for approval under the Social Security Act and pertinent Federal regulations. The issue to be considered at the hearing is whether the State's proposed policy is more restrictive than SSI policy, and if it is more restrictive, whether the proposed policy is not more restrictive than the policy in the State's 1972 plan as required by section 1902(f) of the Social Security Act and Federal regulations at 42 CFR 435.121.

I am scheduling a hearing on your request to be held on December 9, 1987 at 10:00 a.m., Room 1915, 12 Main Tower Building, Dallas, Texas. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Lawrence Ageloff as the presiding official. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594–8261.

Sincerely,
William L. Roper, M.D.
Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: November 3, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 87–25910 Filed 11–6–87; 8:45 am]
BILLING CODE 4120–03–M

Health Resources and Services Administration

Health Education Assistance Loan Program; Maximum Interest Rates for Quarter Ending December 31, 1987

Section 727 of the Public Health Service Act (42 U.S.C. 294) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for graduate students in health professions schools.

A. Section 60.13(a)(4) of the program's implementing regulations (42 CFR Part 60, previously 45 CFR Part 126) provides that the Secretary will announce the interst rate in effect on a quarterly basis.

The Secretary announces that for the period ending December 31, 1987, three interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 9⅞ percent. Using the regulatory formula (45 CFR 126.13(a) (2) and (3)) in effect prior to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury bills for the preceding calendar quarter (6.27 percent), and rounding the result (9.77 percent) upward to the nearest ⅛ percent (9⅞ percent). However, the regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. Because the average rate of the 4 quarters ending December 31, 1987, is not in excess of 12 percent, there is no necessity for reducing the interest rate. For the previous 3 quarters the variable interest at the annual rate was as follows: 9⅛ percent for the quarter ending March 31, 1987; 9¼ percent for the quarter ending June 30, 1987; and 9½ percent for the quarter ending September 30, 1987.

2. For variable rate loans executed during the period of January 27, 1981 through October 21, 1985, the interest rate is 9⅞ percent. Using the regulatory formula (42 CFR 60.13(a)(3)) in effect for that time period, the Secretary computes the maximum interst rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding

quarter (6.27 percent); adding 3.50 percent (9.77 percent); and rounding that figure to the next higher one-eighth of 1 percent (9⅞ percent).

3. For fixed rate loans executed during the period of October 1, 1987 through December 31, 1987, and for variable rate loans executed on or after October 22, 1985, the interest rate is 9⅜ percent. The Health Professions Training Assistance Act of 1985 (Pub. L. 99–129), enacted October 22, 1985, amended the formula for calculating the interest rate by changing 3.5 percent to 3 percent. Using the regulatory formula (42 CFR 60.13(a)(2) and (3)) with the statutory change of 3 percent (42 CFR 60.13(a)(1)), the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (6.27 percent); adding 3.0 percent (9.27 percent) and rounding that figure to the next higher one-eighth of 1 percent (9⅜ percent).

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: November 3, 1987.

David N. Sundwall,

Administrator, Assistant Surgeon General.

[FR Doc. 87–25894 Filed 11–6–87; 8:45 am]

BILLING CODE 4160–15

National Institutes of Health

Division of Research Resources; Minority Biomedical Research Support Subcommittee of the General Research Support Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Minority Biomedical Research Support Subcommittee (MBRSS) of the General Research Support Review Committee (GRSRC), Division of Research Resources (DRR), November 19–20, 1987, Judicial Suite, Hyatt Regency-Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

This meeting will be open to the public on November 20, from 1:30 p.m. to adjournment to discuss policy matters relating to the Minority Biomedical Research Support Program (MBRSP). Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 19, from 8:30 a.m. to 5 p.m. and on November 20, 8:30 a.m. to 12:30 p.m. for the review, discussion, and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Office, Division of Research Resources, National Institutes of Health, Building 31, Room 5B10, Bethesda, Maryland 20892, (301) 496–5545, will provide a summary of the meeting, and a roster of the committee members upon request. Dr. Lawrence J. Alfred, Executive Secretary, (301) 496–4390, will provide substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.375, Minority Biomedical Research Support, National Institutes of Health).

Dated: October 29, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–25933 Filed 11–6–87; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Cancer Center Support Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Center Support Review Committee, National Cancer Institute, National Institutes of Health, December 4, 1987, Hyatt Regency, One Bethesda Metro Center, Bethesda, Maryland 20814.

This meeting will be open to the public on December 4, from 10 a.m. to 3:30 p.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on December 4, from 8:30 a.m. to 10 a.m. for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. John Abrell, Executive Secretary, Cancer Center Support Review Committee, National Cancer Institute, Westwood Building, Room 834, National Institutes of Health, Bethesda, Maryland 20892 (301/496–9767) will furnish substantive program information, upon request.

Dated: October 29, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–25934 Filed 11–6–87; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung and Blood Institute; Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Institute Board of Scientific Counselors, December 7 and 8, 1987, National Institutes of Health, 9000 Rockville Pike, Building 10, Room 7N214, Bethesda, Maryland 20892.

This meeting will be open to the public from 9 a.m. to 4 p.m. December 7 and from 9:30 a.m. to 12 noon on December 8 for discussion of the general trends in research relating to cardiovascular, pulmonary and certain hematologic diseases. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sec. 552b(c)(6), Title 5 U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 12 noon to adjournment December 8 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–4236, will provide a summary of the meeting and a roster of the Board members. Substantive program information may be obtained from Dr. Jack Orloff, Executive Secretary and Director, Division of Intramural Research, NHLBI, NIH, Building 10, Room 7N214, phone (301) 496–2116.

Dated: October 29, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-25936 Filed 11-6-87; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Heart, Lung, and Blood Research Review Committee A; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, National Institutes of Health, on December 3-4, 1987, in Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on December 3 from 8 a.m. to approximately 10 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 3 from approximately 10 a.m. until adjournment on December 4 for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236, will provide a summary of the meeting and a roster of the committee members.

Dr. Peter Spooner, Executive Secretary, Heart, Lung, and Blood Research Review Committee A, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-7265, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; National Institutes of Health)

Dated: October 29, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-25937 Filed 11-6-87; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Heart, Lung, and Blood Research Review Committee B; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892, on December 3, 1987, in Building 31, Conference Room 9.

This meeting will be open to the public on December 3 from 8 a.m. to approximately 10 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public from approximately 10 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236, will provide a summary of the meeting and a roster of the committee members.

Dr. Louis M. Ouellette, Executive Secretary, NHLBI, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-7915, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: October 29, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-25935 Filed 11-6-87; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FES 87-56]

Availability of Final Environmental Impact Statement; Selawik National Wildlife Refuge; Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of a final environmental impact statement for the proposed Comprehensive Conservation Plan, Wilderness Review, and Wild River Plan for Selawik National Wildlife Refuge, Alaska.

SUMMARY: The U.S. Fish and Wildlife Service has prepared a Final Comprehensive Conservation Plan, Environmental Impact Statement, Wilderness Review, and Wild River Plan (Plan) for the Selawik National Wildlife Refuge, Alaska, pursuant to sections 304(g)(1), 1008, and 1317 of the Alaska National Interest Lands Conservation Act of 1980 (Alaska Lands Act); section 3(d) of the Wilderness Act of 1964; and section 102(2)(C) of the National Environmental Policy Act of 1969. The Plan describes three alternatives for managing the refuge as well as the environmental consequences of implementing each alternative. In the document the suitability of all federal lands in the refuge, not previously designated as wilderness lands, is reviewed for possible wilderness designation and inclusion in the National Wilderness Preservation System.

DATE: A Record of Decision will be issued no sooner than December 24, 1987.

FOR FURTHER INFORMATION CONTACT: William Knauer, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786-3399.

SUPPLEMENTARY INFORMATION: A summary of the Plan has been prepared and will be sent to all persons and organizations who participated in any part of the planning process, such as scoping meetings, workshops, or in other types of communication with the planning team. Copies of the complete Plan will be sent to federal and state agencies, regional and village Native corporations, local governments, and other organizations and individuals who have already requested copies. A limited number of copies of both documents are available upon request from Mr. Knauer.

Copies of the complete Plan are available at the office of the Regional Director, at the above address; at the Selawik National Wildlife Refuge Office, P.O. Box 270, Kotzebue, Alaska 99572; and for review, at the following locations:

U.S. Fish and Wildlife Service, Division of Refuge Management, U.S. Department of the Interior Bldg., 18th & C Streets NW., Washington, DC 20240

U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 NE. Multnomah Street, Suite 1692, Portland, OR 97232

U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 Gold Avenue SW., Room 1306, Albuquerque, NM 87103

U.S. Fish and Wildlife Service, Refuges and Wildlife, Federal Building, Fort Snelling, Twin Cities, MN 55111

U.S. Fish and Wildlife Service, Refuges and Wildlife, Richard B. Russell Federal Building, 75 Spring Street, Atlanta, GA 30303

U.S. Fish and Wildlife Service, Refuges and Wildlife, One Gateway Center, Suite 70, Newton Corner, MA 02158

U.S. Fish and Wildlife Service, Refuges and Wildlife, 134 Union Blvd., Lakewood, CO 80225

Date: October 30, 1987.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 87-25808 Filed 11-6-87; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[UT-050-08-4410-08]

Richfield District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Richfield, Utah, Interior.

ACTION: District Advisory Council Meeting.

SUMMARY: The Richfield District Advisory Council will hold a meeting on December 2, 1987, at 9:00 a.m. in the BLM District Office, 150 East 900 North, Richfield, Utah. A field trip on December 3 to the Annabella burn and the Fremont Narrows is tenative, depending on the weather.

Agenda for the meeting will be:

1. FY 1988 Annual Work Plan.
2. Update on the Planning Program.
3. Volunteer Program for FY 87 Summary.
4. Grazing Privileges in Capitol Reef National Park.
5. Endangered Species.
6. Weed Program.

The meeting is open to the public and interested persons may make oral statements to the Council between 2 p.m. and 3 p.m. or file written comments for the councils consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701.

Donald L. Pendleton,

District Manager.

October 30, 1987.

[FR Doc. 87-25827 Filed 11-6-87; 8:45 am]

BILLING CODE 4310-DQ-M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395-7313, with copies to Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646, Room 6A110; Minerals Management Service; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Request for Reservoir MER, Form MMS-1866.

Abstract: Respondents submit Form MMS-1866 to the Minerals Management Service's (MMS) Regional Supervisors so MMS can determine whether a lessee has correctly classified an oil or gas reservoir and whether the reservoir maximum efficient rate (MER) requested by the lessee is valid.

Bureau Form Number: Form MMS-1866.

Frequency: On occasion.

Description of Respondents: Federal oil and gas lessees performing offshore production operations.

Annual Responses: 600.

Annual Burden Hours: 600.

Bureau Clearance Officer: Dorothy Christopher, (703) 435-6213.

Date: October 20, 1987

John B. Rigg,

Associate Director for Offshore Minerals Management

[FR DOc. 87-25828 Filed 11-6-87; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Intention to Negotiate Concession Permit; Cosby Stables, Inc.

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession permit with Cosby Stables, Inc., authorizing it to continue to provide saddle horse livery and guide services for the public at Great Smoky Mountains National Park, Tennessee for a period of four (4) years from January 1, 1988, through December 31, 1991.

This permit renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1987, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the permit as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Southeast Region, Atlanta, Georgia, for information as to the requirements of the proposed permit.

C.W. Ogle,

Acting Regional Director, Southeast Region.

Date: October 16, 1987.

[FR Doc. 87-25909 Filed 11-6-87; 8:45 am]

BILLING CODE 4310-70-M

Congaree Swamp National Monument, SC; Hearing and Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of wilderness hearing/public meeting.

SUMMARY: Notice is hereby given in accordance with section 3 of an Act of September 3, 1964 (Wilderness Act, Pub. L. 88–577) that a public hearing will be held at the following location and time for the purpose of receiving comments on the suitability of lands within Congaree Swamp National Monument for designation as wilderness.

Also, as part of the National Park Service's program for public participation in planning, comments on an Environmental Assessment for the General Management Plan/Wilderness Suitability Study for Congaree Swamp National Monument prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and the establishing legislation for Congaree Swamp National Monument (section 5 of Pub. L. 94–545 dated October 18, 1976) will be received at this public hearing.

The purpose of the General Management Plan/Wilderness Suitability Study/Environmental Assessment is to identify:

The lands and interests in lands adjacent or related to the monument which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of the Act and the estimated costs thereof;

The number of visitors and types of public use within the monument which can be accommodated in accordance with the protection of its resources;

The location and estimated cost of facilities deemed necessary to accommodate such visitors and uses;

The suitability or nonsuitability of any area within the monument for preservation as wilderness; and

The environmental consequences of the proposal and alternatives.

The findings of the Wilderness Suitability Study indicate that the majority of the monument is suitable for wilderness designation and that other portions are suitable for potential wilderness designation, according to the criteria and intent of the Wilderness Act of 1964.

DATE: The Wilderness Hearing/Public Meeting will be held on December 10, 1987 at 7 p.m.

ADDRESS: The hearing will be held at: Cafeteria, Lower Richland High School, Columbia, South Carolina, (located on Sumter Highway at Highways 76/378, approximately 5 miles east of the Veterans Hospital).

FOR FURTHER INFORMATION CONTACT: A limited number of copies of the assessment are available upon request from:

Regional Director, Southeast Region, National Park Service, 75 Spring Street, SW., Atlanta, Georgia 30303, Commercial (404) 331–5465, FTS 242–5465

Superintendent, Congaree Swamp National Monument, P.O. Box 11920, Columbia, South Carolina, Commercial (803) 765–5571, FTS 677–5571

SUPPLEMENTARY INFORMATION: Interested individuals, representatives of organizations and public officials are invited to express their views in person at the aforementioned public hearings, provided they notify the Hearing Officer in care of the Superintendent, Congaree Swamp National Monument, by December 7, 1987, of their desire to appear. Those not wishing to appear in person may submit written statements on the Wilderness Suitability Study and the Environmental Assessment to the Hearing Officer for inclusion in the official record which will be held open for written statements until January 11, 1988.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement that may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the transcribed hearing record. However, all materials presented at the hearing shall be subject to a determination by the Hearing Officer that they are appropriate for inclusion in the hearing record. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the preliminary Wilderness Study and the Environmental Assessment by a representative of the National Park Service, the Hearing Officer, insofar as possible, will adhere to the following order in calling for the presentation of oral statements:

(1) Governor of the State or his representative.

(2) Members of Congress.

(3) Members of the State Legislature.

(4) Official representatives of the county in which the park is located.

(5) Officials of other Federal Agencies or public bodies.

(6) Organizations in alphabetical order.

(7) Individuals in alphabetical order.

(8) Others not giving advance notice, to the extent there is remaining time.

Date: November 2, 1987.

Robert M. Baker,

Regional Director, Southeast Region.

[FR Doc. 87–25908 Filed 11–6–87; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Information Collections Under Review

November 4, 1987.

The Office of Management and Budget (OMB) has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories. Each entry contains the following information: (1) The name and telephone number of the Department's Clearance Officer from whom a copy of the form and/or supporting documentation is available; (2) the office, board or division of the Department of Justice issuing the form or administering the collection; (3) the title of the form/collection; (4) the agency form number, if any; (5) how often the report must be filled out or the information is to be collected; (6) who will be asked or required to respond, as well as a brief abstract; (7) an estimate of the total number of respondents; (8) an estimate of the total public burden hours associated with the collection; (9) an indication of whether section 3504(h) of Pub. L. 96–511 applies; and, (10) the name and telephone number of the person or office responsible for the OMB review. Comments and/or questions regarding the item(s) contained in this notice should be directed to the OMB reviewer listed at the end of each entry *AND* to the Department's Clearance Officer. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should so advise the OMB reviewer *AND* the Department's Clearance Officer of your intent as early as possible.

The Department of Justice Clearance Officer is: Larry E. Miesse and can be reached on (202) 633–4312.

New Collections

(1) Larry E. Miesse, (202) 633–4312.

(2) Immigration and Naturalization Service, Department of Justice.
(3) Immigration User Fee.
(4) No form number.
(5) Quarterly with an annual report.
(6) Businesses or other for-profit. The information requested from commercial airlines, cruise lines and tour operators is generally required by Pub. L. 99–591 and is necessary for monitoring, follow-up and audit of user fee submissions. No form is required, only data basic to collection, payment and remittance of fees.
(7) 625 annual responses, .25 hours burden per response.
(8) 157 estimated public burden hours with estimated 1,250 burden hours for recordkeeping for a total public burden of 1,407 hours.
(9) Not applicable under 3504(h).
(10) Robert Fishman, (202) 395–7340.

Reinstatement of a Previously Approved Collection for Which Approval Has Expired

(1) Larry E. Miesse, (202) 633–4312.
(2) National Institute of Justice, Office of Justice Programs, Department of Justice.
(3) A Network of Knowledge: Directory of Criminal Justice Information Sources Survey Form.
(4) No form number.
(5) Biennially.
(6) Non-profit institutions, Federal agencies or employees. This publication lists criminal justice information providers, including a description of each agency, its area(s) of interest, user restrictions, and contact information. The data collection is to maintain current information.
(7) 200 annual responses, .10 hours burden per response.
(8) 20 estimated total public burden hours.
(9) Not applicable under 3504(h).
(10) Robert Fishman, (202) 395–7340.

Revision of a Currently Approved Collection

(1) Larry E. Miesse, (202) 633–4312.
(2) Bureau of Justice Statistics, Office of Justice Programs, Department of Justice.
(3) National Crime Survey (NCS) Test.
(4) NCS–1(X), NCS–2(X), NCS–3(X), NCS–500.
(5) Quarterly (for test).
(6) Individuals or households. The National Crime Survey is a program for gathering, analyzing, publishing and disseminating statistics on the kind and amount of crime committed against households and individuals throughout the United States. Respondents include persons 12 years or older living in 1,000 households in various locations throughout the country.
(7) 4,000 annual responses, .375 burden hours per response.
(8) 1,500 estimated total public burden hours.
(9) Not applicable under 3504(h).
(10) Robert Fishman, (202) 395–7340.

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

(1) Larry E. Miesse, (202) 633–4312.
(2) Criminal Division, Department of Justice.
(3) Foreign Agents Registration Program.
(4) (a) Registration Statement of Individuals (Foreign Agents).
(b) Short Form Registration Statement of Individuals (Foreign Agents)
(c) Exhibit A to Registration Statement (Foreign Agents).
(d) Exhibit B to Registration Statement (Foreign Agents).
(e) Supplemental Registration of Individuals (Foreign Agents).
(f) Amendment to Registration or Supplemental Registration Reports (Foreign Agents).
(g) Dissemination Report (Transmittal of Political Propaganda).
(5) (a), (b), (c), (d), (f), and (g) are on occasion, (e) is semiannually.
(6) Individuals or households. Businesses or other for-profit, non-profit institutions, small businesses or organizations. This program and its associated form are required by the provisions of 22 U.S.C. § 611 *et seq.* and filings are maintained in the public office of the Registration Unit, Internal Security Section, Criminal Division, where they are available for public review.
(7) (a) 100 annual respondents at 1.5 burden hours each.
(b) 350 annual respondents at .429 burden hours each.
(c) 75 annual respondents at .49 burden hours each.
(d) 75 annual respondents at .33 burden hours each.
(e) 2,400 annual respondents at 1.375 burden hours each.
(f) 200 annual respondents at 1.5 burden hours each.
(g) 3,600 annual respondents at .5 burden hours each.
(8) (a) 150 hours annual burden.
(b) 150 hours annual burden.
(c) 38 hours annual burden.
(d) 25 hours annual burden.
(e) 3,300 hours annual burden.
(f) 300 hours annual burden.
(g) 1,800 hours annual burden.
(9) Not applicable under 3504(h).
(10) Robert Fishman, (202) 395–7340.

Larry E. Miesse,
Department Clearance Officer, Department of Justice.

[FR Doc. 87–25919 Filed 11–6–87; 8:45 am]
BILLING CODE 4410–10–M

Lodging of Consent Decree; Buckeye Products Corp.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on October 26, 1987, a proposed consent decree in *United States* v. *Buckeye Products Corporation*, Civil Action No. 86–C–60–187–AA, was lodged with the United States District Court for the Eastern District of Michigan. The proposed consent decree resolves a judicial enforcement action brought by the United States against Buckeye Products Corporation for violations of the Resource Conservation and Recovery Act.

The proposed consent decree requires the Buckeye Products Corporation to cease all treatment, storage, or disposal of hazardous waste into or on any land treatment or disposal unit located at the Buckeye facility in Adrian, Michigan. In addition, Buckeye Products Corporation is required to fully implement its Environmental Protection Agency approved Groundwater Assessment Plan and its Environmental Protection Agency approved Closure Plan. The proposed decree also requires Buckeye Products Corporation to pay a civil penalty of $82,958.

The proposed consent decree may be examined at the office of the United States Attorney, 231 West Lafayette, Detroit, Michigan and at the office of Regional Counsel, Environmental Protection Agency, 111 W. Jackson Boulevard, Chicago, Illinois.

Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.40 (10 cents per page reproduction costs) payable to the Treasurer of the United States.

Roger J. Marzulla,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87–25829 Filed 11–16–87; 8:45 am]
BILLING CODE 4410–01–M

Lodging of Consent Decree; Hudson Refining, Co., Inc. and Hudson Oil Company, Inc.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on October 13, 1987, a proposed Final Consent Decree in *United States* v. *Hudson Refining Co., Inc. and Hudson Oil Company, Inc.*, Civil Action No. CV–84–2027–A, was lodged with the United States District Court for the Western District of Oklahoma. The complaint in this action was brought on August 8, 1984, seeking civil penalties and injunctive relief for violations of the Resource Conservation and Recovery Act and the Oklahoma Rules and Regulations for Industrial Waste management. In May 1987, a partial consent decree was entered in this case, which required Hudson to pay a civil penalty for past violations and to conduct a facility-wide investigation for potential releases of hazardous wastes or hazardous constituents from the company's petroleum refinery in Cushing, Oklahoma. This proposed Final Consent Decree specifies the corrective action measures to be undertaken by Hudson to remediate the facility.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Final Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, United States Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Hudson Refining Co., Inc. and Hudson Oil Co., Inc.*, D.J. No. 90–7–1–262.

The proposed Final Consent Decree may be examined at the office of the United States Attorney, Room 4434, United States Courthouse, Oklahoma City, Oklahoma; at the Environmental Protection Agency, Region VI, Office of Regional Counsel, 13th Floor, 1445 Ross Ave., Dallas, Texas; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Tenth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Final Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $6.70 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Roger J. Marzulla

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87–25830 Filed 11–6–87; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree; Lithographic Industries

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on October 27, 1987, a proposed consent decree in *United States* v. *Lithographic Industries*, Civil Action No. 86–C–8173, was lodged with the United States District Court for the Northern District of Illinois. The proposed consent decree resolves a judicial enforcement action brought by the United States against Lithographic Industries for violations of the Clean Air Act.

The proposed consent decree requires Lithographic Industries to permanently shut down its five paper coating operations at its plant located in Broadview, Illinois. The decree allows Lithographic to construct and operate a new paper coating line provided Lithographic obtains the necessary permits from the State of Illinois and operates the new paper coating line pursuant to strict operating limits set forth in the Decree and in compliance with the Clean Air Act. The proposed decree also requires Lithographic Industries to pay a civil penalty of $20,000.

The proposed consent decree may be examined at the office of the United States Attorney, 219 South Dearborn Street, Chicago, Illinois and at the office of Regional Counsel, Environmental Protection Agency, 111 West Jackson Boulevard, Chicago, Illinois.

Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87–25831 Filed 11–6–87; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Proposed Final Judgment and Competitive Impact Statement; Standard Tallow Corp. et al.

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed final judgment, stipulation, and competitive impact statement have been filed with the United States District Court for the Southern District of New York in *United States v. Standard Tallow, et al.*, 85–Civ. 2062. The complaint in this case alleged that the four defendant corporations and their co-conspirators engaged in a combination and conspiracy to fix prices and allocate offers to sell and contracts for the sale of drummed tallow supplied to the Government of Egypt and financed by the Agency for International Development. The proposed final judgment would enjoin the defendants from entering into or maintaining, any agreement, understanding, combination, or conspiracy with any competitor to fix the price or other terms or conditions or to allocate offers to sell or contracts for the sale of tallow. The proposed final judgment further would enjoin the defendants from communicating or exchanging with any competitors any information regarding prospective offers to supply tallow in transactions financed by the federal government prior to announcement of the winning bid by the person to whom they were tendered.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to P. Terry Lubeck, Chief, Litigation II Section, Room 10–437, Antitrust Division, U.S. Department of Justice, 555 4th Street NW., Judiciary Center Building, Washington, DC 20001.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

United States District Court Southern District of New York

United States of America, Plaintiff, v. *The Standard Tallow Corp.; Pasternak, Baum & Co., Inc.; Gersony-Strauss Commodities Co., Inc.; and Acme-Hardesty Co., Inc.*, Defendants.

[Civil No.: 85–Civ. 2062]

Filed: October 27, 1987.

Stipulation and Order Regarding Proposed Final Judgment

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The undersigned parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any of the undersigned parties or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any of the undersigned parties or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on the undersigned defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any of the undersigned parties in this or any other proceeding.

For Plaintiff United States of America.

Charles F. Rule,

Assistant Attorney General.

Joseph H. Widmar,

P. Terry Lubeck,

Mark C. Schechter,

Attorneys, Department of Justice.

Carolyn G. Mark,

Attorney, Department of Justice, Antitrust Division, Washington, DC 20001, (202) 724-7981.

For Defendant the Standard Tallow Corporation:

Lowenstein, Sandler, Brochin, Kohl, Fisher, Boylan & Meanor

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For Defendant Pasternak, Baum & Co., Inc.

Fried, Frank, Harris, Shriver & Jacobson

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For Defendant Gersony-Strauss Commodities Co., Inc.

Grand & Ostrow

Paul R. Grand,

641 Lexington Avenue, New York, New York 10022, (212) 832-3611.

For Defendant Acme-Hardesty Co., Inc.

Jones, Day, Reavis & Pogue

Walter Sterling Surrey,

655 15th Street, NW., Washington, DC 20005, (202) 879-7600.

United States District Court Southern District of New York

United States of America, Plaintiff, v. *The Standard Tallow Corp.; Pasternak, Baum & Co., Inc.; Gersony-Strauss Commodities Co., Inc.; and Acme-Hardesty Co., Inc.*, Defendants.

[Civil No.: 85-Civ. 2062]

Filed: October 27, 1987.

Final Judgment

Plaintiff, United States of America, having filed its complaint herein on March 15, 1985, and plaintiff, by agreement with the defendants, having dismissed Counts Two, Three, and Four of the complaint, and plaintiff and the defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or any admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby,

Ordered, adjudged, and decreed as follows:

I

This Court has jurisdiction over the subject matter of this action and over each of the parties hereto. The complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act, 15 U.S.C. 1.

II

As used herein the term:

(A) "Person" means any individual, partnership, corporation, firm, association, or other business or legal entity.

(B) "Tallow" means the processed fat derived from inedible slaughterhouse by-products, from fat trimmings collected from butchers and institutions such as restaurants and hotels, and from dead animals.

(C) "U.S. government" means any department, division, agency, branch, or instrumentality of the United States, including, but not limited to, the Agency for International Development.

III

This Final Judgment applies to each defendant and to its respective officers, directors, employees, and agents, solely in their capacity as such officers, directors, employees, and agents, and to its subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service, service under Section V hereof, or otherwise. This Final Judgment shall not apply to: (a) Lawful transactions or communications solely between a defendant and any of its directors, officers, employees, or agents, when acting in such capacity, or any of its subsidiaries, parent companies, or companies fifty percent (50%) or more owned by any such parent, or (b) conduct (other than conduct related to the supply or sale of tallow to be financed in whole or in part through grants or loans by the U.S. government) excluded by the operation of 15 U.S.C. 6a from the application of 15 U.S.C. 1-7.

IV

(A) Defendants The Standard Tallow Corp. and Acme-Hardesty Co., Inc. each are enjoined and restrained from directly or indirectly entering into, adhering to, maintaining, enforcing, or furthering, or attempting to enter into, adhere to, maintain, enforce, or further, any combination, conspiracy, agreement, understanding, or concert of action with each other or any competitor to:

(1) Raise, fix, maintain, or establish any price, commission, or other term or condition for the supply or sale of tallow to any third person, including but not limited to the supply or sale of tallow to be financed in whole or in part through grants or loans by the U.S. government;

(2) submit any collusive or rigged offer or bid to supply or sell tallow, including but not limited to the supply or sale of tallow to be financed in whole or in part through grants or loans by the U.S. government;

(3) allocate customers or markets, or divide offers or contracts for the supply or sale of tallow, including but not limited to the supply or sale of tallow to be financed in whole or in part through grants or loans by the U.S. government.

(B) Defendants The Standard Tallow Corp. and Acme-Hardesty Co., Inc. each are enjoined and restrained from directly communicating or exchanging with each other or any competitor any term or condition of sale (including, but not limited to, any actual or proposed price, price change, discount, or quantity) at which tallow is to be offered or sold in a transaction financed in whole or in part through grants or loans by the U.S. government, prior to announcement of the offer or bid by the person to whom the offer or bid was tendered.

(C) Defendants Gersony-Strauss Commodities Co., Inc. and Pasternak, Baum & Co., Inc. each are enjoined and restrained from knowingly participating in or submitting any collusive or rigged offer or bid to supply or sell tallow, including but not limited to the supply or

sale of tallow to be financed in whole or in part through grants or loans by the U.S. government.

V

For the duration of this Final Judgment, each defendant shall:

(A) Within sixty (60) days after the entry of this Final Judgment, and annually thereafter, furnish a copy of same to each of its officers and directors, and to each of its employees and agents who arranges for or is engaged in the sale of tallow, or has responsibility for or authority over the pricing or selling of tallow.

(B) Furnish a copy of this Final Judgment to each successor to any person described in paragraph V(A) within sixty (60) days after such successor assumes such position with the defendant.

(C) Attach to each copy of this Final Judgment furnished pursuant to paragraphs V(A) or V(B) a written directive summarizing the terms and requirements of this Final Judgment. Such written directive shall state that it is the policy and the intent of the defendant to comply with the terms and requirements of this Final Judgment and the antitrust laws, shall describe the consequences, including possible civil or criminal penalties, to the defendant and its officers, directors, employees, and agents of a failure to comply with this Final Judgment, and shall include (1) an instruction that any of its officers, directors, employees, or agents who fail to comply with this Final Judgment may be subject to disciplinary action to be determined by the defendant, and (2) advise that the defendant's legal advisors are available at all reasonable times to confer regarding any compliance question or problem.

(D) Obtain annually from each person to whom the defendant furnishes a copy of this Final Judgment and such written directive pursuant to paragraphs V(A) or V(B), a signed certificate in the following form:

I hereby state that: (1) I have received both a copy of the Final Judgment in *United States* v. *Standard Tallow Corp., et al.*, and a written directive setting forth the Company policy regarding compliance with such Final Judgment; (2) I have read and understand such Final Judgment and written directive; (3) I have been informed and understand that failure to comply with the Company policy and that Final Judgment may result in appropriate discriplinary measures as determined by the Company which may include dismissal; and (4) I have been informed and understand that failure to comply with the Final Judgment may result in conviction for contempt of court, and that violation of the antitrust laws may constitute a felony and could result in imprisonment of fine.

VI

For the duration of this Final Judgment, each defendant shall file with the plaintiff, on or before each anniversary date of the entry of this Final Judgment, a sworn statement, by a responsible official designated by the defendant to perform such duties, setting forth all steps the defendant has taken during the preceding year to discharge its obligations under Sections IV and V. This statement shall be accompanied by copies of all directives issued by the defendant during the prior year with respect to compliances with the antitrust laws and with this Final Judgment and copies of all signed certificates required by paragraph V(D).

VII

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant made to its principal office, be permitted:

(1) Access during office hours of the defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant, which may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of the defendant and without restraint or interference from it, to interview officers, employees, and agents of the defendant, which may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, made to a defendant's principal office, such defendant shall submit written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section VII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party or to divulging such material under the Freedom of Information Act, 5 U.S.C. 552.

VIII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of its provisions, for the enforcement of compliance with it, and for the punishment of any violation of it.

IX

This Final Judgment shall be in effect for a period of ten (10) years from the date of its entry by this Court.

X

Entry of this Final Judgment is in the public interest.

United States District Judge.

United States District Court, Southern District of New York

United States of America, Plaintiff, v. *The Standard Tallow Corp.; Pasternak, Baum & Co., Inc.; Gersony-Strauss Commodities Co., Inc.;* and *Acme-Hardesty Co., Inc.*, Defendants.

[Civil No.: 85-Civ. 2062]

Filed: 10/27/87

Competitive Impact Statement

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), the United States hereby submits this Competitive Impact Statement relating to the proposed final judgment submitted for entry in this proceeding. The proposed final judgment, if entered by the Court, would terminate this action as to all defendants.

I

Nature and Purpose of the Proceeding

On March 15, 1985, the United States filed a four-count complaint to obtain injunctive and compensatory relief. The complaint, which alleged violations of section 1 of the Sherman Act, 15 U.S.C. 1, the False Claims Act, 31 U.S.C. 3729–3721, and the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151–2429a–1, also sought relief for unjust enrichment at common law. The complaint alleges that, beginning in November 1975 and continuing until April 1982, defendants and co-conspirators engaged in a combination and conspiracy in unreasonable restraint of interstate and foreign trade and commerce, the substantial terms of which were:

(a) To fix the price at which defendants offered to supply AID-financed drummed tallow to Egypt;

(b) To allocate among themselves the quantity of AID-financed drummed tallow that each would offer and supply to Egypt; and

(c) To submit rigged, collusive, and non-competitive bids in connection with AID-financed sales of drummed tallow to Egypt.

Count One of the complaint seeks injunctive relief under the antitrust laws to prevent the recurrence of the alleged anticompetitive activities, and the proposed final judgement provides injunctive relief against such activities by the defendants.

Counts Two, Three, and Four of the complaint, seeking money damages and forfeitures for alleged overcharges suffered by the United States as a result of the alleged conspiracy, have been settled and compromised by the United States and the defendants in the amount of $500,000 plus interest without adjudication of any issue of fact or law.

Entry by the Court of the proposed final judgment will terminate the remaining portions of this civil action against the defendants, except insofar as the Court will retain jurisdiction over the matter for possible further proceedings which may be required to interpret, modify, or enforce the judgment, or to punish alleged violations of any of the provisions of the judgment.

II

Nature of the Alleged Violation

During the period of the conspiracy alleged in the complaint, defendants The Standard Tallow Corp. (hereinafter "Standard") and Acme-Hardesty Co., Inc. (hereinafter "Acme-Hardesty") were drummers of tallow. Tallow is a type of fat rendered from animal fat, bone and other animal parts. Drummed tallow is tallow packaged in 55-gallon steel drums. Defendants Pasternak, Baum & Co., Inc. (hereinafter "Pasternak") and Gersony-Strauss Commodities Co., Inc. (hereinafter "Gersony-Strauss") are brokers whose role is to bring parties together for the purpose of arranging sales of commodities, including tallow.

As part of its foreign policy since 1975, the United States has made funds available through grants and low-interest loans to the Arab Republic of Egypt (hereinafter "Egypt") for the procurement of commodities, including tallow. Egypt procures tallow through a competitive bidding process. Defendants Standard and Acme-Hardesty, through brokers Pasternak and Gersony-Strauss, have offered to supply and supplied drummed tallow to Egypt.

The government would have been prepared to offer proof at trail, among other things, that beginning in November 1975, representatives of defendants Standard and Acme-Hardesty and a co-conspirator agreed to offer to supply all the drummed tallow sought by Egypt at a uniform price and to divide equally any awards made to them or their brokers, defendants Pasternak and Gersony-Strauss. Defendants Standard, Acme-Hardesty, and a co-conspirator, in concert with the defendant brokers, arrived at a single offering price that the defendant brokers would offer to Egypt on behalf of Standard, Acme-Hardesty, and a co-conspirator. With the knowledge of both broker defendants, Standard, Acme-Hardesty, and a co-conspirator agreed to allocate their offers to supply drummed tallow to Egypt between Gersony-Strauss and Pasternak in fixed proportions. Many of the sales of these drummed tallow sales to Egypt were financed by AID. The government would have been prepared to offer proof that this conspiracy continued until April 1982.

According to the complaint, the alleged conspiracy had the following effects:

(1) Prices of AID-financed drummed tallow supplied to Egypt were fixed, maintained, and established at artificial and non-competitive levels;

(2) Competition for AID-financed sales of drummed tallow to Egypt was restrained, suppressed, and eliminated; and

(3) The United States was denied the benefits of free and open competition on AID-financed sales of drummed tallow to Egypt.

III

Explanation of the Proposed Final Judgment

The United States and the settling defendants have stipulated that the proposed final judgment, which is in a form negotiated by the parties, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act, provided that the United States has not withdrawn its consent. The stipulation between the parties provides that there has been no admission by any party with respect to any issue of fact or law. Under the provisions of section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed final judgment by the Court is conditioned upon a determination by the Court that the judgment is in the public interest. Once entered by the Court, the judgment will be in effect for ten years.

The proposed final judgment will prohibit the defendants from making, furthering, or participating in any agreement to fix the price or other terms of sale of tallow to any third person. The defendants also will be prohibited from submitting rigged bids to sell or supply tallow. Also forbidden will be any agreement or participation in any agreement by the defendants to allocate contracts or markets for tallow. The proposed judgment will cover sales of tallow financed in whole or in part through grants or loans by the United States.

Furthermore, the judgment will prohibit the defendants Standard and Acme-Hardesty from communicating to another person prospective prices or quantities for transactions financed by the federal government, before such prices or other terms are announced by the person receiving the bid.

For the purpose of notifying all necessary employees regarding the prohibitions of the judgement, the defendants will be required, within 60 days, to serve a copy of the judgment on each of their directors and officers, and upon each of their employees or agents who are involved in the pricing or selling of tallow. If new employees are hired in these positions in the future, the defendants also will be required to serve a copy of the judgment on these new employees. The defendants will be required to obtain and keep records showing that these corporate personnel have received, read, and understood the judgment. The judgment will apply not only to each defendant corporation but also to their respective officers, directors, employees, and agents who have actual notice of the judgment.

Requiring the defendants to give such notice to their responsible personnel ensures that the relevant personnel know what activities are prohibited and know that they can be prosecuted for criminal contempt if they disregard the provisions of the judgment.

Under the proposed judgment, for ten years the Department of Justice will be given access to the files and records of each of the defendants in order to examine such records for compliance or noncompliance with the judgment. The Department also will be permitted to interview employees of the defendants to determine whether defendants are complying with the judgment.

The relief encompassed in the proposed final judgment is designed to prevent a recurrence of any of the activities alleged in the complaint. The prohibitory language of the judgment will ensure that all pricing decisions on sales of tallow, including transactions financed by the federal government, are made independently by the individual competitors.

Accordingly, it is the view of the Department of Justice that disposition of Count One without additional litigation is appropriate in view of the fact that the proposed judgment includes the form and scope of relief equal to that which might be obtained after a full hearing on the issues at a trail.

IV

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and a reasonable attorney's fee. Entry of the proposed final judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust action. Under section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a), the proposed final judgment may not be used as *prima facie* evidence in any subsequent private antitrust action brought against any of the settling defendants because it is a consent judgment entered before any testimony has been taken.

V

Procedures Available for Modification of the Proposed Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may submit written comments to P. Terry Lubeck, Chief, Litigation II Section, Room 10-437, Antitrust Division, Department of Justice, 555 4th Street, NW., Washington, DC 20001 within the 60-day period provided by the Act. The comments and the government's responses to them will be filed with the Court and published in the Federal Register. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to its entry if it should determine that some modification of the judgment is necessary in the public interest. The proposed judgment itself provides that the Court will retain jurisdiction over this action, and that the parties may apply to the Court for such orders as may be necessary or appropriate for the modification or enforcement of the judgment.

VI

Alternatives to the Proposed Consent Judgment

It is the opinion of the Department that litigation is not a more desirable alternative than the entry of the proposed final judgment because the proposed final judgment will prevent recurrence of the conduct forming the basis for the Complaint and contains virtually all the relief which was requested in the Complaint.

VII

Other Materials

No materials and documents of the type described in section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), were considered in formulating this proposed judgment.

Respectfully submitted,

Carolyn G. Mark,

Attorney, Department of Justice, Antitrust Division, 555 4th Street, NW., Washington, DC 20001.

[FR Doc. 87-25860 Filed 11-6-87; 8:45 am]

BILLING CODE 4410-01-M

Proposed Termination of Final Judgment; Studiengesellschaft Kohle, m.b.H., et al.

Notice is hereby given that, Stauffer Chemical Company, Hercules, Inc., and Texas Alkyls, Inc., have filed with the United States District Court for the District of Columbia a motion to terminate the final judgment in *United States v. Studiengesellschaft Kohle, m.b.H., et al.*, Civil No. 1255-70; and the Department of Justice ("Department"), in a stipulation also filed with the court, has consented to termination of the judgment, but has reserved the right to withdraw its consent pending receipt of public comments. The complaint in this case (filed on April 24, 1970) alleged that the defendants had combined and conspired in unreasonable restraint of trade in aluminum trialkyls and monopolized the sale of aluminum trialkyls.

The judgment (entered on December 12, 1977) enjoined the companies from entering into or enforcing any agreement which would limit the sale of a product for which there was lawful authorization to use a patented process or machine, from interfering with the sale or use of unpatented aluminum alkyls (which includes aluminum trialkyls, aluminum halides, and alky aluminum hydrides), and from entering into any agreement whereby any person acquires an exclusive right to sell unpatented products made by a patented process or machine. The companies were also required to grant patent licenses to certain applicants, and to license technology regarding aluminum trialkyls to all applicants not currently in the business of manufacturing and selling aluminum trialkyls. Lastly, the decree prohibited the companies from opposing the United States' intervention in or modification of the judgment in *Ethyl Corp. v. Hercules Powder Co.*, 232 F. Supp. 453 (D. Del. 1964).

The Department has filed with the court a memorandum setting forth the reasons why the Department believes that termination of the judgment would serve the public interest. Copies of the complaint and final judgment, the defendants' motion papers, the stipulation containing the Government's consent, the Department's memorandum, and all further papers filed with the court in connection with this motion will be available for inspection at Room 3233, Antitrust Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, DC 20530 (telephone: 202-633-2481), and at the office of the Clerk of the United States District Court for the District of Columbia, 3rd & Constitution Avenue NW., Room 1825, Washington, DC 20001. Copies of any of these materials may be obtained upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the judgment to the Department. Such comments must be received within the sixty-day period established by court order, and will be filed with the court. Comments should

be addressed to John W. Clark, Chief, Professions and Intellectual Property Section, Antitrust Division, United States Department of Justice, 555 Fourth Street, NW., Washington, DC 20001 (telephone: 202-724-7425).

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 87-25859 Filed 11-6-87; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research Act of 1984; Corporation for Open Systems International

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 et seq. ("the Act"), the Corporation for Open Systems International ("COS") has filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission on October 5, 1987 disclosing a change in the membership of COS. The additional written notification was filed for the purpose of extending the protections of section 4 of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On May 14, 1986, COS filed it original notification pursuant to section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 11, 1986, 51 FR 21260. On August 6, 1986, September 30, 1986, January 2, 1987, March 24, 1987, June 12, 1987, July 18, 1987, and July 24, 1987, COS filed additional written notifications. The Department published notices in the **Federal Register** in response to these additional notifications on September 4, 1986 (51 FR 31735), October 28, 1986 (51 FR 39434), February 13, 1987 (52 FR 4671), April 24, 1987 (52 FR 13769), July 21, 1987 (52 FR 27473), respectively.

On July 31, 1987, Morgan Guaranty Trust Company became a party to COS; on August 27, 1987, the United States Army Information Systems became a party to COS; and on August 31, 1987, ITT Corporation withdrew as a member of COS.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 87-25861 Filed 11-6-87; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket No. 87-91]

NASA Advisory Council (NAC) Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, NASA announces a forthcoming meeting of the NASA Advisory Council, Informal Space Life Sciences Committee.

DATE AND TIME: November 20, 1987, 9 a.m. to 5 p.m. and November 21, 1987, 9 a.m. to 3:30 p.m.

ADDRESS: Science Applications International Corporation, NADA Building, 8400 Westpark Drive, McLean, VA 22102.

FOR FURTHER INFORMATION CONTACT: Dr. James H. Bredt, Code EBR, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1525).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Informal Space Life Sciences Committee was established to formulate a comprehensive strategic plan for space life sciences, identify essential efforts with appropriately phased objectives, and define efficient implementing strategies to pursue these goals. The Committee, chaired by Dr. Frederick C. Robbins, has 18 members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including Committee members and other participants).

Type of Meeting: Open.

Agenda

November 20, 1987

9 a.m.—Opening Remarks.
9:15 a.m.—Review Draft of Final Report.
5 p.m.—Adjourn.

November 21, 1987

9 a.m.—Review Draft of Final Report.
3:30 p.m.—Adjourn.

November 2, 1987.

Frank P. Sutherland, Jr.,

Director, Personnel Policy and Work Force Effectiveness Division.

[FR Doc. 87-25862 Filed 11-6-87; 8:45 am]

BILLING CODE 7510-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-25079; File No. SR-AMEX-87-27]

American Stock Exchange, Inc.; Listing Guidelines for Foreign Currency and Index Warrants, and Rules Applicable to Index Warrants

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 16, 1987, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend section 106 of the Amex *Company Guide* to provide listing guidelines applicable to foreign currency and index warrants; to amend Rule 411 to apply the options suitability standards in Rule 923 to recommendations regarding index warrants; and to amend Rule 421 to require that discretionary orders in index warrants be approved and initialled on the day entered by a Senior Registered Options Principal or a Registered Options Principal.

The text of the proposed rule change is available at the Office of the Secretary, American Stock Exchange, Inc. and at the Commission.

II. Self-Regulatory Organizaton's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

(i) Listing guidelines. The Exchange is proposing to amend section 106 of the Amex *Company Guide* to provide listing guidelines to permit the listing of index warrants, which will be unsecured obligations of their issuer, and subject to cash settlement in U.S. dollars during a term of one to five years from date of issuance. The index warrants would be based on established major market indices, both domestic and foreign.

In Securities Exchange Act Release No. 24555 (June 12, 1987), the Commission approved the listing of warrants on foreign currencies. The proposed amendments to section 106 also codify the guidelines that are currently applicable to warrants on foreign currencies.

Index warrants would be eligible for listing whether structured as American style options (*i.e.*, exercisable throughout their life) or European style options (*i.e.*, exercisable only on their expiration date). Upon exercise, or at the warrant expiration date (if not exercisable prior to such date), the holder of a warrant which has been structured to act as a "put option" would receive payment in U.S. dollars to the extent that the index has declined below a pre-stated cash settlement value. Conversely, holders of warrants structured to resemble a "call option" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the index has increased above the pre-stated cash settlement value. If "out-of-the-money" at the time of expiration, the warrants would be worthless.

The listing of warrants would be considered on a case by case basis. Since the warrants would represent unsecured obligations of the issuer, only warrants issued by companies that exceed the Exchange's financial listing criteria (section 101 of the *Company Guide*) and that have assets in excess of $100 million would be considered eligible for listing. The Exchange proposes to require a minimum public distribution of 1,000,000 warrants together with a minimum of 400 public holders, and an aggregate market value of $4,000,000.

(ii) *Suitability standards.* The Exchange is proposing to amend Rule 411 (Duty to Know and Approve Customers) by adding Commentary .02 to apply the options suitability standard in Rule 923 to recommendations regarding index warrants.

The Exchange proposes to recommend that index warrants be sold only to options-approved accounts. However, whether or not the customer's account has been approved for options trading, the options suitability standard in Rule 923 will be applicable to recommended transactions involving index warrants. This would require that the member or member organization have reasonable grounds to believe the transaction is suitable for the customer, and have a reasonable basis for believing that the customer could evaluate and financially bear the risks of the recommended transaction.

Proposed Commentary .01 to Rule 411 would formalize existing procedures relating to listed currency warrants as specified in the membership circulars issued by the Exchange relating to the warrants—namely, that the Exchange recommends that currency warrants be sold to options-approved accounts, and that, if an account is not so approved, a careful determination be made that currency warrants are suitable for the customer. In contrast to requirements for recommended transactions in index warrants, Rule 923 options suitability requirements would not be applied to currency warrants.

(iii) *Discretionary accounts.* Index warrant transactions in discretionary accounts would also be subject to an additional requirement similar to procedures under Rule 924 regarding options transactions in discretionary accounts. Proposed Commentary .02 to Rule 421 would require a Senior Registered Options Principal or a Registered Options Principal to approve and initial a discretionary order in index warrants on the day entered.

(iv) *Risk disclosure.* Following the procedure adopted for currency warrants, the Exchange proposes to distribute a Circular to the Membership calling attention to specific risks associated with warrants on domestic and foreign indices (*see* Exhibit B). The Circular to the Membership relating to specific index warrants to be listed would emphasize the importance of warrant investors being given an explanation of the special characteristics and risks of the warrants and would specify the suitability standard under proposed Commentary .02 to rule 411, as well as Rule 923.

(2) Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) of the Act in particular in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will have no impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants and Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 30, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: October 30, 1987.

American Stock Exchange, Inc.

Circular to the Membership

The following securities of _____ Corporation have been approved for Exchange listing and will commence trading at a date to be announced.

- _____ Principal Amount of _____% Notes due _____,
- _____ (one to five)- year cash settled _____ Index Warrants expiring _____.

The above securities are being offered separately, and not as a unit, under a common prospectus. Each security will trade independently of the other with the following ticker symbols:

- *XYZ* for the Notes, and *XYZ.WS* for the Warrants.

The _____ Index Warrants have several unique characteristics and can be expected to fluctuate in value due to a number of interrelated factors, including, but not limited to, variations in the _____ Index and [for foreign indices] in the exchange rate between the _____ and the U.S. Dollar. Therefore, it is important that Warrant investors be afforded an explanation of the special characteristics and risks attendant to trading thereof.

The Exchange recommends that Index Warrants be sold only to investors whose accounts have been approved for options trading pursuant to the rules regarding standardized options trading. However the Exchange emphasizes that the requirements under Amex Rule 923 (Options Suitability) shall apply with respect to recommendations in index warrants, *whether or not the customer's account has been approved for options trading.* Under Rule 923(a), a person making the recommendation must have reasonable grounds to believe that the entire recommended transaction is not unsuitable for the customer on the basis of information furnished by such customer's investment objectives, financial situation and needs, and any other information known by the person making the recommendation. Under Rule 923(b), the person making the recommendation must have a reasonable basis for believing, at the time of making such recommendation, that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capable of evaluating the risks of the recommended transaction, and is financially able to bear the risks of the recommended transaction.

Any questions regarding this matter should be directed to _____ at 306-_____.

[FR Doc. 87-25921 Filed 11-6-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25084; File No. SR-MSRB-87-13]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Disclosures in Connection With New Issues

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 5, 1987, the Municipal Securities Rulemaking Board ("Board") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would provide an objective definition of "underwriting period" for sold underwritings for purposes of rule G-32 on disclosures in connection with new issues. The proposed amendment would define the underwriting period for sold underwritings to begin upon the first submission of an order for the issue or the purchase of the issue from the issuer by the underwriter, whichever first occurs. It would define the underwriting period to end when both of the following two conditions are met: (i) The issuer delivers the securities to the underwriter; and (ii) the underwriter no longer retains an unsold balance of the securities or 21 calendar days elapse after the first submission of an order to the underwriter, whichever first occurs.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Rule G-32 requires all dealers selling new issue municipal securities during the underwriting period to deliver a copy of the official statement for the issue, if one will be prepared, to each customer no later than settlement with the customer. The underwriting period is defined to begin with the first submission to a syndicate of an order for the purchase of the securities or the purchase of such securities from the issuer, whichever first occurs. The underwriting period is defined to end when the issuer delivers the securities to the syndicate or the syndicate no longer retains an unsold balance of the securities, whichever last occurs. This definition is designed to ensure that a sufficient number of investors receive new issue disclosures. The Board previously has interpreted rule G-32 to apply to new issue securities distributed by a sole underwriter ("sole underwritings") not withstanding the use of the term "syndicate" in the definition of underwriting period and has stated that the number of underwriters is irrelevant to the purposes of the rule. The definition of underwriting period for syndicated underwritings, however, is not appropriate for sole underwritings because a sole underwriter may retain portions of an issue in its inventory long after the delivery of the issue by the issuer and completion of the initial reoffering.

The proposed rule change would address this problem by providing objective criteria to determine the underwriting period in sole underwritings. The definition in the proposed rule change is consistent with the definition used for syndicated underwritings, with the addition of a 21-day limitation on the underwriting period in cases in which the issuer has delivered the issue and the underwriter continues to retain an unsold balance. This objective definition would allow dealers to determine their obligations under rule G-32 more easily and would facilitate enforcement of the rule by enforcement agencies.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board believes that the proposed rule will not impose any burden on competition because it applies equally to all brokers, dealers and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

In March 1987, the Board published an exposure draft of the proposed rule change and received three comments from the following:

Lex Jolley & Co., Inc. ("Lex Jolley")

Merrill Lynch Capital Markets ("Merrill Lynch")
The Municipal Securities Committee of the National Association of Securities Dealers (the "NASD Committee").

The two commentators who addressed the substance of the proposed rule change generally supported it. One commentator suggested that the underwriting period for sole and syndicated underwritings and five business days following the "initial street settlement date" to make it easier for dealers that are not underwriters to determine when the underwriting period ends. The Board believes that the proposed rule change and the definition of underwriting period for syndicated underwritings currently in rule G–32 provide adequate objective criteria for dealers to determine their obligations under rule G–32. The Board notes that the proposed rule change is consistent with the requirement for syndicate underwritings, which the Board previously has examined and concluded to be an appropriate time period for new issue disclosure obligations. Another commentator suggested replacing the 21-day period in the proposed rule change with a 30-day period. The Board believes that the 21-day period provides the appropriate balance between the disclosure objectives of rule G–32 and the burdens on dealers to comply with the rule.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 30, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 2, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–25922 Filed 11–6–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–25088; File No. SR–NASD–87–46]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Limitation of the Hours of Trading of the NASDAQ System and Requirement of Certain Member Firms to Open on Saturday

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 27, 1987, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change interprets Article VII, section 1(a)(2) of the NASD By-Laws to enable the NASD to limit the hours of trading of the National Association of Securities Dealers Automated Quotation ("NASDAQ") System and to require certain member firms to open on Saturday.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

This proposed rule change constitutes an interpretation of Article VII, section 1(a)(2) of the NASD By-Laws. The NASD has determined that in order to protect investors and the public interest in an environment of extraordinary high volume in the marketplace, it is necessary to close the NASDAQ System for purposes of accepting quotations or orders for execution in SOES as of 2:00 p.m. Eastern time on October 23, 26, and 27. In addition, the NASD is requiring that NASD member firms effecting transactions in OTC equity securities have appropriate personnel present at the member's offices on Saturday, October 24, 1987, from 10:00 a.m. until 4:00 p.m. Eastern time.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association believes that the proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of the Act.

C. Self-Regulatory Organization's Statement on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. Any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD-87-46 and should be submitted by November 30, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Jonathan G. Katz,

Secretary.

Dated: November 3, 1987.

[FR Doc. 87-25923 Filed 11-6-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25083; File No. SR-NASD-87-51]

Self-Regulatory Organizations; Order Approving on Accelerated Basis Proposed Rule Change; National Association of Securities Dealers, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 29, 1987, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this order to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD hereby files a proposed rule change, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to extend the pilot program for NASDAQ Workstation Service through November 30, 1987. All other aspects of the current pilot program, as approved by the Commission on July 27, 1987, will remain unchanged during this brief extension.[1] Absent this extension, the pilot program will expire on November 1, 1987.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NASDAQ Workstation Service commenced with the Commission's issuance of an order authorizing a pilot program from July 31 to October 1, 1987.[2] During this interval, participating NASDAQ market makers (*i.e.*, NASDAQ Level 3 subscribers) have utilized the service, at no charge, in order to familiarize themselves with its features. Based on that experience, participants will have objective information to apply in deciding whether to continue NASDAQ Workstation Service after the pilot period. The purpose of this a rule proposal is to obtain Commission approval of an extension of the pilot program through November 30, 1987. This extension is needed to assure continuity of Workstation Service while the Commission deliberates such matters as permanent status, subscriber fees, and expanded access proposed in File No. SR-NASD-87-36. Accordingly, the Association urges prompt Commission approval of this filing to assure service continuity and to facilitate an orderly transition of the Workstation Service from pilot to permanent status no later than December 1, 1987.

The only modification posed in this filing is an extension of the Workstation Service pilot program from October 31, to November 30, 1987 (inclusive). The NASD cites section 11A and 15A of the Act as providing the statutory basis for this extension. Subsections (A)-(D) of section 11A(a)(1) contain a series of Congressional findings respecting the goals of a national market system. Enhancing market efficiency through application of advanced data processing and communications technologies is the recurrent theme of these provisions. The NASDAQ Workstation Service combines powerful PC's with specialized software developed by NASDAQ, Inc. to provide state-of-the-art data management capabilities to all interested subscribers. In particular, the NASDAQ Workstations market monitoring and display capabilities were designed to increase the oprational efficiency of subscribing market makers, to increase their competitiveness, and to contribute to the liquidity of the NASDAQ market. Extension of the pilot program will permit participating market makers to utilize NASDAQ market data more effectively and also facilitate an orderly introduction of the service to other subscribers at the pilot's conclusion. Such results are fully consistent with the policy goals articulated under section 11A(a)(1) of the Act.

The Association also relies on section 15A(b)(6) of the Act in support of this proposal. Section 15A(b)(6) requires, *inter alia*, that the Association's rules promote just and equitable principles of trade, facilitate securities transactions, perfect the mechanism of a free and open market and a national market system, and generally protect investors and the public interest. Extending the NASDAQ Workstation pilot enables participating market makers to access the advanced data management features under actual trading conditions. Such access means opportunities for subscribers to utilize NASDAQ market data more efficiently in making trading decisions. Continued monitoring of this experience is vital to facilitate an orderly introduction of the Workstation Service to other interested subscribers. Moreover, the requested extension will provide some additional market makers with an opportunity to test the service, at no cost, before deciding whether to elect it on a paying basis. The NASD submits that access to the NASDAQ Workstation Service, via an extension of the pilot program, will ultimately serve to facilitate securities transactions.

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[1] *See* Securities Exchange Act Release No. 24749 (July 27, 1987), approving File No. SR-NASD-87-29. On September 25, 1987, the NASD submitted File No. SR-NASD-87-36 to establish the NASDAQ Workstation Service on a permanent basis and to set the applicable subscriber fees. That filing is still pending with the Commission.

[2] Securities Exchange Act Release No. 24749, *supra* note 1. Subsequently, the pilot program was extended through October 31, 1987 with the Commission's issuance of Securities Exchange Act Release No. 25009 (October 9, 1987).

advance the policy goals underlying a national market system, and generally protect investors and the public interest. Therefore, the NASD posits that Commission approval of the instant filing is fully justified under the above-cited elements of Section 15A(b)(6).

B. Self-Regulatory Organization's Statement on Burden on Competition

The instant proposal does not involve the imposition of any competitive burden. This conclusion is supported by several factors. First, subscription to the NASDAQ Workstation Service will be voluntary and open to each participant on the same terms. At the conclusion of the extended pilot program, a firm's decision to elect the new service will be based upon an assessment of its costs and benefits relative to accessing the desired level of NASDAQ service via the Harris standard terminal or the NQDS service from independent vendors. (The relevant costs are set forth in File No. SR–NASD–87–36 which is pending with the Commission.) Second, the NASD will continue to make available the Harris terminal equipment. The NASD expects that many firms opting for NASDAQ Workstation Service will continue to use some of their existing harris terminals. Third, the modifications embodied in this filing to not create a competitive burden *vis-a-vis* vendors of securitied market information. Extending the pilot period will not impair any vendor's ability to access NASDAQ market makers' quotes (*i.e.*, the NQDS service) or NASDAQ-NMS last sale reports via high speed data feeds. Fourth, it must be emphasized that the NASDAQ Workstation Service was principally designed to provide sophisticated data management capabilities to NASDAQ market makers. Such capabilities promote greater efficiency in market makers' routine activities and thereby enhance the quality of the NASDAQ marketplace. Provision of NASDAQ Workstation Service closely parallels an exchange's upgrading of systems that support market making on a physical trading floor. Consequently, an extended pilot program for NASDAQ Workstation Service does not pose a competitive impact upon vendors servicing a much broader range of end users.

It is believed, therefore, that no competitive burden will result from the Commission's approval of this filing.

C. Self-Regulatory Organization's Statement on Comments On the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing For Commission Action

The NASD requests the Commission to find good cause for approving the proposed rule change prior to the 35th day after its publication in the *Federal Register*, and in any event, by October 31, 1987. Absent such approval, the pilot program for NASDAQ Workstation Service will terminate as of November 1, 1987. Accelerated approval is necessary and appropriate for a variety of reasons including (i) continuity of service to existing participants in the pilot program until subscriber fees are set; (ii) allowing additional market makers, who had volunteered earlier, to participate in the pilot; (iii) allowing additional opportunities for testing Workstation terminals under actual and varied trading conditions; (iv) allowing pilot progam participants, as well as the Association's technical staff, further opportunity to evaluate the operation of Workstation terminals and related software; and (v) to promote an orderly transition of NASDAQ Workstation Service to permanent status. For these reasons, the NASD urges that the Commission find good cause to grant accelerated approval of this proposed rule change no later than October 31, 1987.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. Specifically, accelerated approval will allow continuity of Workstation Service to existing participants and allow some additional market makers to participate for the extended pilot period. These participants will benefit by gaining experience with the Workstation Service under actual trading conditions before deciding to subscribe on a paying basis. Similarly, the NASD's technical staff will have a further opportunity to evaluate operation of the Workstation terminals and related software in order to address any unforesenn problems. This monitoring process should assure an orderly transition to permanent status at a future date. Likewise, the proposed extension will allow continuation of the pilot program while the Commission considers the fees and permanent status proposed in File No. SR–NASD–87–36. The Commission recognizes that without accelerated approval, authorization of the NASDAQ Workstation Service pilot program will terminate on November 1, 1987. Based on the foregoing, the Commission finds good cause for granting accelerated approval of this rule change proposal in accord with section 19(b)(2)(B) of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 30, 1987.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: November 2, 1987.

[FR Doc. 87–25924 Filed 11–6–87; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

November 3, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 threunder, for unlisted trading privileges in the following securities:

PNC Financial Corp.

Common Stock, $5.00 Par Value (File No. 7–0697)

The Vons Companies, Inc.

Common Stock, $.10 Par Value (File No. 7–0698)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 25, 1987, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz

Secretary.

[FR Doc. 87-25925 Filed 11-6-87; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-17339]

Application and Opportunity for Hearing, Marine Midland Banks, Inc.

November 3, 1987.

Notice is hereby given that Marine Midland Banks, Inc. a Delaware corporation (the "Company"), has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act"), for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Chemical Bank ("Chemical") under the indenture set forth below, which has been qualified under the Act, and the trusteeship of Chemical under an indenture dated as of April 1, 1987 is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chemical.

Section 310(b) of the Act provides, *inter alia*, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions stated therein, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture of the same obligor.

In support of its application, the Company states as follows:

(1) Chemical Bank currently is acting as trustee under two indentures in which the Applicant is the obligor: (a) Indenture, dated March 1, 1987 (the "March Indenture"), which involved the issuance of $125,000,000 principal amount of 8-5/8% Subordinated Capital Notes Due 1997 (the "8-5/8% Notes"), and (b) Indenture, dated as of April 1, 1987 (the "April Indenture"), which involved the issuance of $100,000,000 Floating Rate Subordinated Capital Notes Due 1999 (the "Floating Rate Notes").

(2) The March Indenture was filed as an Exhibit to Applicant's Securities Act of 1933 and has been qualified under the Trust Indenture Act of 1939. The Floating Rate Notes have not been registered under the Securities Act of 1933 and the April Indenture has not been qualified under the Trust Indenture Act of 1939 because the Floating Rate Notes were offered and sold under circumstances reasonably designed to preclude distribution within, or to nationals of the United States. The 8-5/8% Notes and the Floating Rate Notes rank *pari passu* with each other.

(3) The Applicant is not in default in any respect under either the April Indenture or the March Indenture or under any other existing indenture.

(4) The obligations of the Company under the April Indenture and the March Indenture are wholly unsecured and, aside from differences among these two Indentures as to matters relating to United States taxation, and differences in form between the April Indenture and the March Indenture, the terms of said indentures are substantially similar.

Such differences as exist between the March Indenture and the April Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chemical from acting as Trustee under either of said indentures.

(5) Applicant has waived notice of hearing, and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document (File No. 22-17339) on file in the offices of the Commission at the Public Reference Section, 450 Fifth Street NW., Washington, DC 20549.

Notice is further given that any interested person may not later than November 29, 1987 request in writing that a hearing be held on the matter, stating the nature of his interest, the reasons for such request, and the issues of law and fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25926 Filed 11-6-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region IX Advisory Council; Public Meeting; Fresno, CA

The U.S. Small Business Administration Region IX Advisory Council, located in the geographical area of Fresno, will hold a public meeting at 9:00 a.m. on Tuesday, November 24, 1987, at the Fresno District Office, 2202 Monterey Street, Suit 108, Fresno, California to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Peter J. Bergin, District Director, U.S. Small Business Administration, 2202 Monterey Street, Suit 108, Fresno, California 93721, (209) 487-5791.

Jean M. Nowak,

Director, Office of Advisory Councils.

November 2, 1987.

[FR Doc. 87-25888 Filed 11-6-87; 8:45 am]

BILLING CODE 8025-01-M

Region X Advisory Council; Public Meeting; Boise, ID

The Small Business Administration Region X Advisory Council, located in the geographical area of Boise, Idaho, will hold a public meeting at 9:30 a.m., Tuesday, November 24, 1987, at the Owyhee Plaza "Ambassador Room" 1109 Main Street, Boise, Idaho, to discuss such business as may be presented by members, the staff of the

U.S. Small Business Administration, and others attending.

For further information, write or call Joseph G. Kaeppner, District Director, U.S. Small Business Administration, 1020 Main Street, Suite 290, Boise, Idaho, (208) 334–9641.

Jean M. Nowak,

Director, Office of Advisory Council.

November 2, 1987.

[FR Doc. 87–25889 Filed 11–6–87; 8:45 am]

BILLING CODE 8025–01–M

Region I Advisory Council; Public Meeting; Concord, NH

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Concord, New Hampshire, will hold a public meeting at 10:00 a.m. on Wednesday, December 2, 1987, in the James Cleveland Federal Building, Room B–16, 55 Pleasant Street, Concord, New Hampshire, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call William K. Phillips, District Director, U.S. Small Business Administration, P.O. Box 1257, 55 Pleasant Street, Concord, New Hampshire 03301, (603) 225–1400.

Jean M. Nowak,

Director, Office of Advisory Council.

November 3, 1987.

[FR Doc. 87–25890 Filed 11–6–87; 8:45 am]

BILLING CODE 8025–01–M

Region II Advisory Council; Public Meeting; Hato Rey, PR

The Small Business Administration Region II Advisory Council located in the geographical area of Hato Rey, Puerto Rico, will hold a public meeting at 9:00 a.m., Tuesday, November 24, 1987, at Room 691, Federal Building, Carlos Chardon Avenue, Hato Rey, Puerto Rico, to discuss such matters as may be presented by members, staff of the Small Business Administration or others attending.

For further information, write or call Wilfred Benitez Robles, District Director, Small Business Administration, Federal Building, Room 691, Carlos Chardon Avenue, Hato Rey, Puerto Rico 00918–(809) 753–4002.

Jean M. Nowak,

Director, Office of Advisory Councils.

November 2, 1987.

[FR Doc. 87–25891 Filed 11–6–87; 8:45 am]

BILLING CODE 8025–01–M

Region III Advisory Council; Public Meeting; Richmond, VA

The U.S. Small Business Administration Region III Advisory Council, located in the geographical area of Richmond, Virginia, will hold a public meeting from 1:00 p.m. to 4:30 p.m. on Monday, November 30, 1987, and from 8:30 a.m. on December 1 until 12:00 Noon, at the Holiday Inn Conference Center Koger Center South, 1021 Koger Center Blvd., Richmond, Virginia, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For Further information, write or call Catherine S. Marschall, District Director, U.S. Small Business Administration, P.O. Box 10126, Federal Building, Richmond, Virginia 23240 (804) 771–2741.

Jean M. Nowak,

Director, Office of Advisory Councils.

November 1, 1987.

[FR Doc. 87–25892 Filed 11–6–87; 8:45 am]

BILLING CODE, 8025–01–M

DEPARTMENT OF STATE

[Public Notice 1039]

Fisherman's Protective Act Procedures; Fee

ACTION: Notice of fees for the agreement year from October 1, 1987 through September 30, 1988.

SUMMARY: Section 7 of the Fishermen's Protective Act of 1967, as amended, requires fees from participating vessel owners for deposit into the Fishermen's Guaranty Fund. These fees fund a program which compensates fishing vessel owners for certain losses they have incurred when their vessels have been seized by foreign nations. This notice establishes the fee for the present agreement year (October 1, 1987 through September 30, 1988) at $22 per gross vessel ton. This fee is payable in two equal installments, the first due on November 15, 1987, and the second due on March 15, 1988. Vessels fishing pursuant to an international agreement to which the United States government is a party will not be obligated to pay the second installment of $11 per gross vessel ton in order to maintain coverage for the entire 1988 fiscal year, provided they confine their fishing activities to the area covered by such international agreement.

EFFECTIVE DATE: October 1, 1987–September 30, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. H. Stetson Tinkham, Office of Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington, DC 20520, Telephone number (202) 647–2009.

SUPPLEMENTARY INFORMATION: The Fishermen's Guaranty Fund, under section 7 of the Fishermen's Protective Act (22 U.S.C. 1971–1980), (the "Act"), compensates U.S. fishing vessel owners who have entered into guaranty agreements for certain losses caused by a foreign country's seizure or detention of a U.S. fishing vessel based on claims to jurisdiction not recognized by the United States or exercised in a manner inconsistent with international law as recognized by the United States. Pre-existing agreements are required. The initial fee of $22 per gross vessel ton established for the present agreement year (October 1, 1987 through September 30, 1988) is predicated on several factors.

First, it is logical to set a fee at a level which will encourage participation and therefore raise the largest amount of revenue. Recent experience would indicate that a fee in excess of $30 has the effect of decreasing participation in the program. In 1986, when the fee was set at $30, there were only 28 agreement holders and not all of these paid the full fee. The previous year when the year was set at $16, there were 87 agreement holders. Because of the timing of the transfer of the Fund from the Department of Commerce to the Department of State (the transfer was not fully implemented until the middle of Fiscal Year 1987) and because of a legal challenge to the 1986 fee structure, only 22 boats participated in the 1987 program. In this regard, 1987 was not a typical year. Discussions with vessel owners reflect the increased participation in the Fund will occur in 1988.

Second, it is the Department of State's understanding that the ten year average disbursement for the Fund is less than $1.25 million annually. While in recent years there has been a noticeable increase in the amount of the individual claims made, and thus in recent years (last 5 years) the average of $1.25 million annually, it is believed that the demands on the Fund are cyclical in nature. For example, despite a high level of demand against the Fund in FY 1986, there were no claims filed against the Fund in FY 1987. Additionally, the Memorandum Decision in M/V BRENDA JOLENE *et al.* v. United States of America (Justice Enright, March 23, 1987) indicates that the amount of the fee should be based on a percentage of what the U.S. Government seeks in appropriations for

the Fund rather than based solely on what the demands against the Fund are anticipated to be. Nevertheless, expected demands against the Fund may be considered in determining the amount of the appropriations the Department will seek. The vessel owner fee may comprise from 100 percent down to 33 percent of this amount. Finally, the Department of State assumes that the eventual entry into force of the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America (Treaty) will dramatically reduce the risk of seizures in that part of the Pacific Ocean, (historically very costly to the Fund.) This potential reduction of demands against the Fund should be considered. If it is assumed during FY 1988 that 30 vessels would participate at a fee level of $22 and 30 different vessels at a fee level of $11 (the approximate number of vessels fishing in both the Eastern and Western Pacific, respectively), the amount of total fee income could range up to approximately $990,000. It is probably unrealistic to assume that all the vessels will participate, therefore, the expected fee income estimate has been reduced by ⅓ for a total expected fee income of $660,000. The Department intends to seek a supplemental budget appropriation of $660,000 in order to comply with the decision in the BRENDA JOLENE case. Thus, the anticipated total from fees and appropriations if $1,320,000. This figure is within the range of average annual demands on the Fund.

Fees are established by publication of notices in the **Federal Register**. Agreement holders for the fiscal year, October 1, 1986 through September 30, 1987, may renew their agreements by sending in a signed guaranty agreement form and the first installment of the fee now being set. U.S. fishing vessel operators who did not participate last year may send in signed application for agreement forms, a signed guaranty agreement (page one left blank), a U.S. Coast Guard form CG–1330, "Certificate of Ownership of Vessel," along with the first installment of this year's fee, in order to enter into guaranty agreements for the Fiscal Year 1988.

Program fees for the present agreement year (October 1, 1987 through September 30, 1988) are hereby established at $22 per gross vessel ton. Upon entry into force of an international agreement to which the United States is a party, vessels fishing pursuant to such agreement will not be obligated to pay the second installment in order to maintain coverage for all of FY 1988, provided those vessels confine their fishing to the area(s) encompassed by the international agreement. There may be a fee increase during Fiscal Year 1988. Presently, however, there are no plans to increase the fee.

The fee is due on the date this notice is published in the **Federal Register**, but is optionally payable in two equal installments, the first due no later than November 15, 1987, and the second due no later than March 15, 1988. In the event of a late fee payment, program coverage will commence one day after the postmark date of the fee payment. No seizure whose first proximate event occurred after September 30, 1987, but before one day after the postmark date of fee payment, will be eligible for compensation.

For the purpose of this notice, postmark means the date and time at which the U.S. Postal Service cancels postage. Certified mail is encouraged. If fees are delivered by uncertified mail or by any means other than U.S. Mail, the actual date and time of receipt will be substituted for what otherwise would have been the postmark date.

Classification

This action is taken under the authority of 22 U.S.C. 1977, complies with Executive Order 12291, and is not subject to the requirements of the Regulatory Flexibility Act. It does not contain any collection of information requirement, as defined in the Paperwork Reduction Act.

As a "matter relating to Agency * * * contracts," this notice is exempt for the notice, comment, and delayed effectiveness provisions of the Administrative Procedure Act. This means analysis under the Regulatory Flexibility Act is not required.

For the Secretary of State.

Date: October 30, 1987.

Richard J. Smith,

Acting Assistant Secretary for Oceans and International Environmental and Scientific Affairs.

[FR Doc. 87–25854 Filed 11–6–87; 8:45 am]

BILLING CODE 4710–09–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Suspension of Some Sanctions; Japan Semiconductor Case

SUMMARY: Pursuant to authority delegated by the President in Proclamation No. 5631 of April 17, 1987, the United States Trade Representative hereby suspends the increased duties on imports of certain power hand tools, 18- and 19-inch color televisions, and low performance 16-bit desktop computers the product of Japan because of Japan's improved compliance with its obligations under the U.S.-Japan Arrangement concerning Trade in Semiconductor Products. The remaining increased duties imposed by Proclamation No. 5631 continue in effect.

EFFECTIVE DATE: 12:01 a.m. November 10, 1987.

FOR FURTHER INFORMATION CONTACT: Jim Gradoville, (202) 395–3476 (for technical and policy information); John Kingery, (202) 395–6800 (for legal issues).

SUPPLEMENTARY INFORMATION: On April 17, 1987, the President determined, under section 301 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2411, that the Government of Japan had not implemented or enforced major provisions of the Arrangement concerning Trade in Semiconductor Products ("Arrangement"), signed September 2, 1986, and that this was inconsistent with the provisions of, or otherwise denied benefits to the United States under, the Arrangement; and was unjustifiable and unreasonable, and constituted a burden or restriction on U.S. commerce (52 FR 13419).

In response, the President proclaimed increases in customs duties to a level of 100 percent *ad valorem* on certain products of Japan and, accordingly, by Proclamation No. 5631 raised duties on specified products of Japan (52 FR 13412). The President also proclaimed in part: "The United States Trade Representative is authorized to suspend, modify, or terminate the increased duties imposed by this Proclamation upon publication in the **Federal Register** of his determination that such action is in the interest of the United States."

On June 15, 1987, I determined to suspend the increased customs duties on 20-inch televisions the product of Japan, based upon Japan's improved compliance with some obligations under the Arrangement (52 FR 22693). Specifically, based upon monitoring by the Department of Commerce of the Arrangement's implementation, we determined that, although the access of foreign-based companies to Japan's semiconductor market had not improved and Japanese EPROMs (erasable programmable read only memory semiconductor chips) apparently were still being sold at unfairly low prices, the prices of Japanese DRAMs (dynamic random access memory semiconductor chips) had increased, reducing (but not eliminating) the unfairly low pricing of semiconductors exported from Japan. On this basis I determined that suspension of the increased duties on

20-inch color televisions the product of Japan was in the interest of the United States.

Based upon the U.S. Government's continued monitoring of the Government of Japan's compliance with the Arrangement, we have determined that Japan is now fully in compliance with its obligations under the Arrangement with respect to preventing "dumping" of semiconductors; the Government of Japan has been monitoring costs and export prices of semiconductor products exported from Japan, and encouraging Japanese semiconductor producers to conform to antidumping principles. The prices of EPROMs and DRAMs have increased and are no longer being sold at unfairly low prices. As a result of these price increases eliminating the unfairly low pricing, I have determined that it is in the interest of the United States to suspend the increased duties imposed by Proclamation No. 5631 on certain power hand tools, 18- and 19-inch color televisions, and low performance 16-bit desktop computers the product of Japan. Consequently, I hereby suspend the increased duties imposed by Proclamation No. 5631 on certain power hand tools, 18- and 19-inch color televisions, and low performance 16-bit desktop computers the product of Japan. The sanctions which have been suspended will be reimposed should third-country dumping recur. The Tariff Schedules of the United States are modified to reflect the suspension as set forth in the Annex hereto.

Also based on the U.S. Government's monitoring of the Government of Japan's compliance with the Arrangement, we have determined that the Government of Japan has not fully implemented other major obligations under the Arrangement. Although the Government of Japan has taken some steps toward satisfying these obligations, the access of foreign-based companies to Japan's semiconductor market has not improved, and remains unequal to that enjoyed by Japanese firms. As a result, we have determined that it is in the interest of the United States to continue in effect the increased duties on laptop computers, certain power hand tools and certain desktop computers.

This determination shall be published in the **Federal Register.**

Alan Woods,

Deputy United States Trade Representative.

Annex

(a) Part 2B of the Appendix to the Tariff Schedules of the United States is modified by deleting items 945.84 and 945.85, and by inserting the following new items in numerical sequence in lieu thereof, with the article descriptions at the first level of indentation:

	"Automatic data processing machines, of the type of which the constituent units are separately housed, whether finished or unfinished, which incorporate a microprocessor-based calculating mechanism, are capable of handling data words of at least 16-bits off the microprocessor, designed for use while affixed to or placed on a table, desk, or similar place:	
945.89	Having a microprocessor-based calculating mechanism capable of directly handling memory of over 8 million bits (provided for in item 676.15, part 4G, schedule 6), 100% ad val.	No change.
945.90	Having a microprocessor-based calculating mechanism capable of directly handling memory of not over 8 million bits (provided for in item 676.15, part 4G, schedule 6), 100 % ad val.	No change.
	Rotary drills, not battery powered, with a chuck capacity of 1/2 inch or more; electropneumatic rotary and percussion hammers; and grinders, sanders, and polishers (except angle grinders, sanders, and polishers, belt sanders, and orbital and straight-line sanders), the foregoing which are hand-directed or -controlled tools with self-contained electric motor:	
945.91	Electropneumatic rotary and percussion hammers (provided for in item 683.20, part 5, schedule 6), 100% ad val.	No change."
945.92	Other (provided for in item 683.20, part 5, schedule 6), 100% ad val.	No change."

(b) The increased duties imposed under items 945.87, 945.90 and 945.92 are suspended.

[FR Doc. 87-25938 Filed 11-6-87; 8:45 am]

BILLING CODE 3190-01

DEPARTMENT OF THE TREASURY

Rechartering of the Advisory Committee to the National Center for State and Local Law Enforcement Training

Pursuant to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92-463, as amended), and with the approval of the Secretary of the Treasury, announces the rechartering of the following advisory committee:

Title: The Advisory Committee to the National Center for State and Local Law Enforcement Training.

The primary purpose of the advisory committee is to provide a forum for discussion and interchange between a broad cross-section of representatives from the law enforcement community and related training institutions on training issues and needs. Considering that there are over 40,000 individual police departments throughout the country, the advice emanating from this exchange is very important to the Director of the Federal Law Enforcement Training Center (FLETC) and the Director of the National Center for State and Local Law Enforcement Training at FLETC (National Center). The committee's advice is critical to ensuring that programs developed and offered by the National Center are meeting the unique and specialized needs of the State and local law enforcement community and enhancing the networking between Federal, State, and local agencies. This networking is essential to an efficient and effective overall system.

Although FLETC representatives participate in the training committee activities of the major policy membership associations, no forum exists which provides the broad representation required to meet the needs of the National Center. The uniqueness of the programs requires an appropriately selected and specifically dedicated group.

The committee advises the Director of the FLETC and the Director of the National Center for State and Local Law Enforcement Training on policy formulation, training needs, curriculum and course content, student admission and evaluation. There is no question that the committee input has been very instrumental in the success enjoyed to this point. Resources have been committed only to those programs which meet special needs of the State and local law enforcement community. All programs have been well attended, and critiques and evaluations are quite positive.

The committee does not duplicate functions being performed within Treasury or elsewhere in the Federal Government.

Accordingly, I hereby determine, pursuant to the provisions of the Federal Advisory Committee Act, Pub. L. 92-463, as amended, that continuation of the Advisory Committee to the National Center for State and Local Law Enforcement Training for a two-year period, beginning November 5, 1987, is in the public interest.

Dated: November 3, 1987.

John F. W. Rogers,

Assistant Secretary of the Treasury (Management).

[FR Doc. 87-25907 Filed 11-6-87; 8:45 am]

BILLING CODE 4810-25-M

Customs Service

[T.D. 87-136]

Recordation of Trade Name; "Two's Company"

AGENCY: U.S. Customs Service, Treasury.

ACTION: Notice of recordation.

SUMMARY: On August 3, 1987, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "TWO'S COMPANY" was published in the Federal Register (52 FR 28774). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received not later than October 3, 1987. No responses were received in opposition to the notice.

Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the name "TWO'S COMPANY" is recorded as the trade name used by Two's Company, a corporation organized under the laws of the State of New York, located at 33 Bertel Avenue, Mount Vernon, New York 10550. The trade name is used in connection with the following merchandise manufactured in Japan, Hong Kong and Taiwan: Acrylic and glass vases; stirrers; glass picture frames; glass products; floral accessories; commercial flowers containers; Christmas ornaments; silver and silver plated products; napkin rings and vinyl products.

DATE: November 9, 1987.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-5765)

Dated: November 3, 1987.

Jerry Laderberg,

Acting Chief, Entry, Licensing and Restricted Merchandise Branch.

[FR Doc. 87-25920 Filed 11-6-87; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

United States Advisory Commission on Public Diplomacy; Meeting

The United States Advisory Commission on Public Diplomacy will conduct a meeting in Room 600, 301 4th Street, SW. on November 17 from 11:00 a.m. to 12:30 p.m.

The meeting will be closed to the public because it will involve a discussion of classified information relating to USIA's planning for a U.S.-Soviet Summit, foreign public opinion, and the INF agreement. (5 U.S.C. 552b(c)(1))

Please call Gloria Kalamets, (202) 485-2468 for further information.

Marvin Stone,

Acting Director.

Dated: November 3, 1987.

[FR Doc. 87-25863 Filed 11-6-87; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 216
Monday, November 9, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FARM CREDIT ADMINISTRATION

Correction of Sunshine Act Notice

SUMMARY: Pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), the Farm Credit Administration gave notice on October 30, 1987 (52 FR 41799) of the regular meeting of the Farm Credit Administration Board (Board) scheduled to be held on Tuesday, November 3, 1987. This notice is to revise the agenda for that meeting to include an additional item in the closed portion.

DATE AND TIME: The meeting was held at the offices of the Farm Credit Administration in McLean, Virginia, on November 3, 1987, from 10:00 a.m. until such time as the Board concluded its business.

FOR FURTHER INFORMATION CONTACT: David A. Hill, Secretary of the Farm Credit Administration Board, 1501 Farm Credit Drive McLean, Virginia 22102-5090, (703) 883-4003.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: Parts of the meeting of the Board were open to the public (limited space available), and parts of the meeting were closed to the public. The agenda for Tuesday, November 3, is revised to include the following item:

1. Litigative Matters.[1]

Dated: November 4, 1987.

David A. Hill,

Secretary, Farm Credit Administration.

[FR Doc. 87-25915 Filed 11-5-87; 8:52 am]

BILLING CODE 6705-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, November 4, 1987.

PLACE: Room 532, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Consideration of letter from American Optometric Association concerning oral presentations on Eyeglasses II rulemaking proceeding.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 326-2179, Recorded Message: (202) 326-2711.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 87-25939 Filed 11-5-87; 9:18 am]

BILLING CODE 6750-01-M

[1] Session closed to the public—exempt pursuant to 5 U.S.C. 552b(c)(10).

SECURITIES AND EXCHANGE COMMISSION:

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [52 FR 42174 November 3, 1987].

STATUS: Closed meeting.

PLACE: 450 5th Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Thursday, October 29, 1987.

CHANGES IN THE MEETING: Additional item.

The following additional item was considered at a closed meeting on Tuesday, November 3, 1987, at 12:00 noon.

Legislative matter relating to enforcement program.

Commissioner Fleischman, as duty officer, determined that Commission business required the above change.

At times changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Judith Axe at (202) 272-2092.

Jonathan G. Katz,

Secretary.

November 4, 1987

[FR Doc. 87-25979 Filed 11-5-87; 2:08 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 52, No. 216
Monday, November 9, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. G-6355-001, et al.]

Conoco, Inc., et al.; Applications for Certificates, Abandonments of Service and Petitions to Amend Certificates

Correction

In notice document 87-23863 beginning on page 38262 in the issue of Thursday, October 15, 1987, make the following correction:

On page 38263, in the table, in the first column, in the first line, the docket number should read "C187-905-000".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER88-16-000, et al.]

Georgia Power Co. et al.; Electric Rate and Corporate Regulations Filings

Correction

In notice document 87-24412 beginning on page 39268 in the issue of Wednesday, October 21, 1987, make the following correction:

On page 39269, in the first column, the seventh line should read "[Docket No. EC88-2-000]".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 209 (Rev. 3)]

Delegation of Authority

Correction

In notice document 87-23565 appearing on page 39765 in the issue of Friday, October 23, 1987, make the following correction:

In the first column, under **SUMMARY**, in the 10th line, "partnership of" should read "partnership or".

BILLING CODE 1505-01-D

Federal Register

Monday
November 9, 1987

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Standards for Approval of an Automatic Takeoff Thrust Control System (ATTCS); Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 24046, Amendment No. 25-62]

Standards for Approval of an Automatic Takeoff Thrust Control System (ATTCS)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment provides new airplane and equipment airworthiness standards for the installation of an automatic takeoff thrust control system (ATTCS) on Part 25 transport category airplanes. As the current regulations do not provide airworthiness standards for this novel and unusual system, special conditions have been developed and issued to provide appropriate standards for installation of the system. This amendment eliminates the need for special conditions.

EFFECTIVE DATE: December 9, 1987.

FOR FURTHER INFORMATION CONTACT: James Walker, Transport Standards Staff, ANM-110, Aircraft Certification Division, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2116.

SUPPLEMENTARY INFORMATION:

Background

Initial development of ATTCS special conditions began in the latter part of 1976. At that time, several airplane manufacturers were known to be interested in such a system or had made application for approval of such a system.

With an ATTCS installed, takeoffs would normally be made with all-engine thrust set at less than the maximum certificated takeoff thrust approved for the airplane. The ATTCS actuates in the event of an engine failure during takeoff to automatically apply maximum takeoff thrust to the remaining operating engine(s). An airplane with such a system installed would have a number of novel and unusual design features that are not presently addressed by the regulations. As such, §§ 21.16 and 21.101 of Part 21 require that special conditions be developed and compliance with the special conditions be demonstrated. Special conditions were, therefore, developed for each applicant requesting approval of an ATTCS installation to cover the change in the airplane type design. Note that the term "thrust" is used throughout the discussion even though the normal nomenclature for turbojet is thrust and for turbopropeller is power. No distinction is made in the discussion and "thrust" is used for both.

In November 1977 proposed special conditions for an ATTCS for any two or three engine turbine-powered transport category airplane were developed and sent to interested aviation groups and various foreign civil aviation authorities for review and comment. Comments were reviewed, and the special conditions were revised and sent out for comment in May 1978 and again in November 1978. Cooperating with the FAA in this development were the Aerospace Industries Association of America (AIA), Air Transport Association of America (ATA), Airline Pilots Association (ALPA), Allied Pilots Association (APA), Rolls Royce (RR), Hawker Siddeley Aviation, Ltd. (HS), British Civil Aviation Authority (CAA), civil aviation authorities of Australia and Japan, the French Technical Commission Navigation (FTCN), the French civil aviation authorities, Lockheed, Boeing, McDonnell Douglas, and Rockwell International. As a result of this effort, essentially identical special conditions were issued to all applicants.

The requirements adopted by this amendment incorporate into Part 25 the substance of the special conditions that have been developed and issued to date. Future applicants who wish to install an ATTCS system will have appropriate rules for designing their systems without the need to go through the special condition development process. As in the special conditions, the amendment herein specifies limits on the maximum thrust increment which can be applied to the operating engines by the ATTCS system; prescribes ATTCS system reliability; requires system status monitoring; requires provisions for manual selection of the maximum takeoff thrust approved for the airplane; prohibits approval of the ATTCS system design if the automatic or manual application of maximum takeoff thrust would result in exceeding engine operating limits; and requires an independent engine failure warning indication if the inherent operating characteristics of the airplane do not provide a clear warning to the crew.

In addition, a "critical time interval" definition is included to provide a uniform and acceptable basis for probability calculations.

The basis for this amendment is the special conditions developed for the Boeing 727 and Douglas DC-9 ATTCS designs. The ATTCS installed and approved on those airplane models involved a relatively simple electromechanical system integrated with the engines hydromechanical fuel control unit and was designed to increase the thrust a fixed amount. The system was designed to increase thrust only and no other systems or functions beyond the ATTCS could be interfaced with the ATTCS uptrim function nor could the ATTCS be adversely affected if other systems malfunctioned or failed.

Since certification of the original ATTCS however, a number of others have been approved which were required to comply with the same special conditions issued for the earlier ATTCS designs. Some of the more recent ATTCS configurations installed on some of the latest model turbofan and turbopropeller airplanes have been considerably more complex than the ATTCS approved for the Boeing 727 airplane. These systems interface with the latest designed engine electronic fuel control units (ECU) which use microprocessors and digital computers. The electronic controls command fuel flows for a range of thrust from about 50 percent to full rated thrust in some installations and facilitates the ATTCS 10 percent increment which can be a software program within the basic electronic fuel control configuration. Additionally, these electrical or electronic engine controls interface with and are integrated with, in some installations, other critical or essential engine and airplane systems such as autofeathering, autothrottles and in some instances reverser thrust control systems and surge, stall and overspeed protection.

These interfaces and integrated features make the ECU complex in design and difficult to evaluate in light of the performance and other pertinent design criteria used to find compliance with the special conditions and the applicable airworthiness regulations. However, the FAA considers the ATTCS installation an optional appliance, and it is not an item necessary for the basic airplane certification. Therefore, the FAA policy on ATTCS is that regardless of whether the airplane is ATTCS equipped or not, the airplane must be found to comply with the applicable regulations on its own merits and where an ATTCS is installed and integrated the basic airplane airworthiness must not be compromised by the ATTCS installation, and the ATTCS must comply with the requirements of the proposed amendment. This means that the isolation, separation and fail safe concepts in §§ 25.901 and 25.903 must be satisfied regardless of the depth or complexity of the integrated electrical or electronic fuel controls and other critical

or essential airplane systems. The FAA considers the fail-safe means, for these ATTCS applications, to be a fail-fixed condition, in that the design of the ECUs would not cause a downtrim or reduce installed engine thrust by a significant amount.

Discussion of Comments

Notice of proposed rulemaking (NPRM) No. 84–4 was published in the **Federal Register** on April 27, 1984 (49 FR 18240), for public comment. Notice No. 84–4A was published on July 20, 1984 (49 FR 29410), to allow additional time in which to comment. The following discussion summarizes the comments received from the public, industry and foreign authorities and manufacturers.

One commenter disagrees that the proposed regulations provide a level of safety equivalent to that provided by the applicable regulations for airplanes not having an ATTCS installed, as stated in the NPRM preamble. The commenter further states that the ATTCS is an optional system not required for safety purposes and is installed for economic reasons and if it does not function when needed, a lower level of safety could result under certain circumstances than if it were not installed. The commenter feels the installation of an ATTCS should comply with § 25.1309 and be approved in conjunction with the procedures of Advisory Circular (AC) 25.1309–1, System Design Analysis. The commenter believes system failure of the ATTCS should be shown to be extremely improbable to provide the same level of safety under all conditions as if the system were not installed.

This amendment provides equivalent safety since a combined failure of the ATTCS and an engine during the critical time interval must be extremely improbable and the failure of the ATTCS to insert thrust during this critical time interval must be improbable. Under the provisions of this amendment, which are consistent with § 25.1309, it must be extremely improbable that an ATTCS-equipped airplane would fail to meet Part 25 performance flight path requirements below 400 feet. Even in the event of a combined ATTCS failure and loss of one engine, which is extremely improbable, the airplane would be able to continue flight and land since the limit on initial takeoff thrust levels provide assurance that sufficient pilot reaction time will be available to advance the thrust. This limit would prevent penetration of the Part 25 net flight path above 400 feet and would assure that the limiting initial takeoff thrust assures a positive climb gradient.

The same commenter states that the reliability criteria of the ATTCS should be based on the categorical assumption of engine failure like many other system design requirements of Part 25. The reliability criteria imposed on the ATTCS is consistent with the requirements of § 25.1309 and is based on an assumed engine failure during the critical time interval which is required in this amendment.

The same commenter requests that the proposed standards prohibit performance credit for ATTCS when a "reduced takeoff" thrust procedure is used. The FAA has not approved ATTCS credit with "reduced thrust" operations for the several ATTCS installations approved to date by the special conditions. This amendment makes clear that such credit is not approved by restricting the initial takeoff thrust at the beginning of the takeoff (or at the same point normally used to establish the takeoff thrust for non-ATTCS operations) to not less than 90 percent of the maximum takeoff thrust available for the airplane under the existing ambient day conditions.

The same commenter requests that procedures be adopted to prohibit performance credit to increase takeoff gross weight when the system is used on contaminated runways. The FAA does not agree. The provisions of the amendment and of Part 25 regarding accelerate-stop criteria are the same, with the exception that the thrust increase in the interval between engine failure and V_1 due to ATTCS operation must be included in the accelerate-stop distance.

Another request from the same commenter recommends a maximum crosswind be specified so that directional control would not be jeopardized by operation of the system. As part of the original or an amended type certificate (TC), the Airplane Flight Manual (AFM) contains a statement of the maximum crosswind as determined by the ground handling characteristic requirements in the current regulations. In addition, all minimum control speeds are based upon the ATTCS operating as intended so the level of safety provided by Part 25 is maintained.

One commenter expresses concern about § 25.904 being sufficiently flexible to allow future flight management systems and performance management systems to be expanded to manage the takeoff functions an ATTCS now performs. A system designed to perform ATTCS and other functions during the takeoff would be acceptable if it can be shown to comply with both the requirements of this amendment and the requirements for those other functions.

The same commenter recommends that the FAA devise a more objective criterion than the "arbitrary" 10 percent limit. The commenter believes the proposed paragraphs I25.4 (b) and (c) may be sufficient by themselves.

In the special conditions, the FAA adopted the value based on a review of the impact that "reduced thrust" operations had on runway-critical takeoffs. A 10 percent value was determined to be a straightforward and acceptable decrement from a safety standpoint in limiting both runway critical takeoffs and degradation of all-engine climb performance factors that are not addressed by paragraphs I25.4 (b) and (c).

Several commenters recommend expanding the scope of the proposed standards to include such additional maneuvers as: (1) Takeoffs using reduced and derated thrust, (2) thrust reductions during initial climb, and (3) approach climb performance and go-around maneuvers.

The FAA has not restricted ATTCS operations where airplane performance is based on an approved "derate" rating which has corresponding engine and airplane limits approved for use under all weight, altitude and temperature (WAT) conditions. However, the FAA has not allowed the reduced thrust (assumed temperature or weight decrement method) operations to be combined with ATTCS because the resulting flight procedures would increase the pilot workload by creating an infinite number of initial all-engine and engine-failed thrust settings. The increased workload could lead to performance computation errors, and create confusion for the crews workload during a critical high workload engine failure situation. Operationally, noise abatement procedures have already created another set of thrust settings which must be monitored and set. The combination would substantially increase exposure to performance limiting conditions, and this clearly would not be equivalent to current regulations, which are based on a single thrust setting for takeoff. In regard to ATTCS credit for approach climb and go-around maneuvers, current regulations preclude a higher thrust for the approach climb (§ 25.121(d)) than for the landing climb (§ 25.119). The workload required for the flightcrew to monitor and select from multiple in-flight thrust settings in the event of an engine failure during a critical point in the approach, landing, or go-around operation is excessive. Therefore, the

FAA does not agree that the scope of the amendment should be changed to include the use of ATTCS for anything except the takeoff phase.

Several comments suggest changing the word "gross" to "actual" in the definition of the "Critical Time Interval" (paragraph I25.2(b)) and in the illustration depicting the definition.

The FAA concurs since the use of "gross" has apparently created some confusion and the meaning is evidently misleading both in the text and in the illustration. Since the word "gross" does not appear in the referenced regulation § 25.115, the word "gross" has been changed to "actual" in both the textual definition (paragraph I25.2(b)) and the illustration. The word "actual" is used in § 25.115(b), although the procedures to determine the actual flight path are defined by § 25.111.

Two commenters request paragraph I25.1(b) be revised by deleting the phrase, "without requiring any action by the crew to increase thrust or power." One commenter thinks the phrase is misleading because several requirements of Part 25 must be met at the maximum takeoff thrust irrespective of whether action by the crew is necessary to obtain such thrust. The other commenter states all the design and flight requirements must be met with the maximum power attained after ATTCS advance occurs and accelerate-stop distances, all engine takeoff, etc., must be accomplished with the power actually available. The phrase "without requiring any action by the crew * * *" was originally inserted into the previous special conditions for the purpose of emphasizing that the ATTCS must automatically function to insert the thrust increment if an engine fails during the critical time portion of the takeoff. The ATTCS is required to perform automatically without pilot assistance to demonstrate compliance and to be consistent with the requirements of § 25.111(c)(4). The inclusion of this requirement in the rule makes it clear that the system design must not require any pilot action in order to achieve a level of safety that would otherwise be required by Part 25. Amendment 25–54 adopted October 14, 1980, amended § 25.111(c)(4) by specifying that no change in thrust requiring pilot action could be necessary until the airplane is 400 feet above the surface. Since that section applies also to airplanes equipped with an ATTCS, the requirement could be deleted as being redundant, but it is retained to emphasize the automatic feature required in all ATTCS systems presented for approval.

One commenter feels the critical time interval (CTI) definition should be changed to read as follows: "The critical time interval is defined as the time from V_{EF} (engine failure airspeed) to the time at which the airplane is not less than 400 feet height above the takeoff surface in the minimum performance takeoff path determined by § 25.111, with ATTCS operative." The justification given for this comment is that this would result in an increase in the CTI and reflect the requirements of § 25.111, which state that the critical engine is made inoperative at V_{EF}. Therefore, any failure of the ATTCS to operate at that point or later will result in a lower takeoff path than required up to the 400 foot point.

The FAA does not concur. The CTI was defined in terms of V_1 (takeoff decision speed) because engine failure speed V_{EF} does not apply to an all-engine takeoff which is used in determining the interval. The additional one second delay prior to V_1 was added to approximate the time interval between V_{EF} and V_1. No further change in severity of the rule is warranted.

Three commenters propose changes to paragraph I25.2(c), the definition of "takeoff thrust" or "takeoff power." One comment relates to the commenters proposal, discussed above, to permit broader basic application of ATTCS to reduced thrust takeoffs and approach and landing maneuvers. As discussed above, the FAA denies the request for expansion of the application of an ATTCS to which this comment relates. Two commenters state that the definition is misleading and erroneous. The definition of "takeoff thrust" or "takeoff power" does not, as previously believed, add significantly to the substance of the regulation. The FAA agrees that in light of the comments received the definition as stated may be misleading and therefore, in the interest of clarity paragraph I25.2(c), has been deleted. Minor changes in other sections where the terms "takeoff thrust" or "takeoff power" are used will be made to clarify their usage.

A number of commenters believe the FAA reliability requirements for an ATTCS and the combined engine/ATTCS system failure probability are excessively conservative and do not match the probabilities with the consequences of the failures. The FAA does not agree. The previous special conditions and this amendment to Part 25 were developed using the principles in § 25.1309 because this was considered the most appropriate method of dealing with complex systems. This amendment evolved from the concepts of § 25.1309 which, in part, state that airplane systems must be designed so that the occurrence of any failure condition that would prevent continued safe flight and landing is extremely improbable and that the occurrence of any other failure conditions which would reduce the capability of the airplane or the ability of the crew to cope with adverse operating conditions is improbable. Also considered in the development of the previous special conditions, which are also the foundation of this amendment, were the establishment of safety equivalency and the requirement of § 25.111(c)(4). Thus, in order to provide a level of safety equivalent to that provided by the current regulations, which preclude credit for pilot actions to change thrust below 400 feet, the probability of the concurrent existence of a combined engine/ATTCS failure must be extremely improbable during the critical time interval. If penetration of the actual flight path which is used to determine obstacle clearance margins is extremely improbable, then the probability of penetrating the net flight path will be the same as that provided by current regulations. A high degree of reliability is necessary for the ATTCS itself. If a reliable system is not provided, confidence in the system would be eroded and crews would be reluctant to use the system, thereby negating the advantages provided through the use of the ATTCS. It was decided that the system's probability of failure to insert takeoff thrust or takeoff power, during the critical time interval, should be improbable and the probability of an ATTCS failure causing a thrust reduction, during the critical time interval, should be extremely improbable. As a practical matter, this requirement is not considered overly severe because of the relatively short time period involved in the specified critical time interval. The reliability is also tied to the requirement that the initial takeoff thrust will be limited to 90 percent of the maximum approved takeoff thrust which essentially assures the airplane will remain airborne without immediate crew action. If this assurance were not provided, a higher level of system reliability would be necessary.

Several commenters express concern about the meaning and intent of a new proposed requirement dealing with the loss of thrust during the critical time interval. Other comments state that the purpose of paragraphs I25.3 (a)(3) and (b)(3) was unclear. The FAA agrees that the proposal was not entirely clear as presented in the NPRM. In consideration of the various comments paragraph

I25.3(a)(3) of the requirement has been revised to clarify the intent.

After evaluating the several comments in regard to the alternate airplane performance and ATTCS reliability requirements in proposed paragraph I25.3(b), the FAA has decided not to adopt that option in this amendment for the following reasons: (1) Deleting the "(b)" option is not considered a significant change since no previous applicant elected to show compliance with these alternate airplane performance and reliability requirements, (2) the "(b)" option does not properly apply to the older vintage airplanes, and (3) section 21.101 provides the flexibility to prescribe any necessary standards for future applications on previously certificated airplanes. Deletion of paragraph I25.3(b) has also resulted in renumbering other paragraphs.

Proposed paragraph I25.3(a)(3) which is incorporated in this final rule as paragraph I25.3(a)(2) required that inadvertent thrust reductions during critical time interval must be shown to be extremely improbable. The purpose of the additional requirement of proposed paragraph I25.3(a)(3), which has not been incorporated in the previous special conditions, is to address those designs that may want to use the electro-mechanical or servomechanism feature of an engine control system (autothrottles, for instance) to perform the thrust insertion function. The ATTCS currently approved have features that are integral with the engine fuel control for increasing thrust. These features are inherently not susceptible to faults which might cut off all fuel to the engines or retard the thrust. On systems which use autothrottle servo-mechanisms or the like to perform the thrust insertion, obviously, a fault of this nature is unacceptable and would likely result in a catastrophe if fuel were cut or thrust reduced a significant amount. Therefore, this failure condition must be shown to be extremely improbable for all ATTCS designs. "Significant loss or reduction in thrust or power" means an engine thrust loss that is more than two percent of the initially set total approved takeoff thrust for the airplane at existing ambient conditions. The FAA recognizes that an ATTCS system using an integrated autothrottle/servo-mechanism design or similar type of design will inherently have a degree of mechanical tolerance in the rigging of a mechanical designed type and that each engine's thrust control mechanism and system rigging will not be identical to the other engines' control rigging due to various factors in the maintenance, design, and environmental effects. The allowance of such a decrement is reasonable in consideration of the failure consequences and time duration of the critical stage during the takeoff.

Several commenters reviewed the alternate performance and reliability requirements outlined in paragraph I25.3(b) and have similar views to those presented for paragraph I25.3(a). One commenter suggests the paragraph be deleted entirely as being so unduly complex as to nearly nullify the benefits of ATTCS. Another commenter states the paragraph should be modified to delete the specific numerical reliability requirement since this is not appropriate in a regulation and would likely establish a precedent. The commenter states it does not seem justified to ask for the same low probability of failure in paragraphs I25.3 (a) and (b) for the same failure case and at the same time ask for extra safety margins. For the reasons stated earlier, the FAA has decided not to adopt the alternate airplane performance and ATTCS reliability requirements in this amendment. Therefore, comments concerning that option are no longer relevant and do not require discussion in this preamble.

Several commenters suggest clarifications in paragraphs I25.3(b) (5), (6) and (7). One commenter suggests the paragraph (paragraph I25.3(b)(5)) clarify that the ATTCS operative V_R is maintained and that reduced V_{LOF} and V_2 speeds are acceptable for the unlikely combination failure. These comments have become moot for the reasons stated earlier. Another comment was to change "gross" to "actual" in paragraphs I25.3(b) (6)(i) and (7)(ii). This comment is no longer relevant for the reasons stated earlier.

One commenter questioned the requirements of paragraphs I25.3 (b)6 and (b)(7) and the relationship of the two paragraphs. This comment is no longer relevant for the reasons stated earlier.

Several commenters believe that the limitation on the amount of allowable thrust reduction in paragraph I25.4(a) is arbitrary; that it treats two engine airplanes differently and unevenly from three and four engine airplanes; that it is a crude and somewhat indirect method to ensure that the all-engine performance is not significantly degraded and that a minimum level of performance is available in the event of a combined engine and ATTCS failure; that it restricts and penalizes the performance of certain engine installations; and that it increases operating costs and engine maintenance by not permitting "reduced thrust" takeoffs without increasing safety benefits significantly. The FAA does not agree. The specification of a probability of failure requirement without defining a minimum performance level based on the initial thrust setting is inadequate to assure retention of the level of safety now provided by the regulations. Part 25 engine-out climb requirements not only define a level of safety for the engine-out condition but also define the all-engine performance level consisting of the engine-out requirement plus the added performance provided by the additional operating engine(s). Permitting ATTCS equipped airplanes to operate without a minimum performance level defined in terms of the initial takeoff thrust achieved and verified by the flightcrew early in the takeoff run would ignore the fact that the all-engine level of safety is defined by the existing engine-out requirement. Infringing on this relationship would violate the intent of the regulations. The 90 percent limitation is appropriate and lends itself to a simple, straightforward method for assuring a safe all-engine takeoff in lieu of a more complex performance procedure.

One commenter suggests a revision to paragraph I25.5(b)(1) which would make this paragraph consistent with a previous suggestion which proposed expanding the scope of the amendment. The FAA previously stated that the change was not appropriate and the commenter has presented no new information to alter that determination.

Two commenters disagree with the requirements of paragraph I25.5(b)(2) which require that the means used or allowed to be used to increase thrust, i.e., an override, must be located on or forward of the thrust levers. They disagree this location is necessarily optimum. One commenter believes the objective should be to locate the switch, or means to override, so it is readily accessible and in close proximity to the hand on the thrust levers, preferably close enough so that the hand need not be removed to actuate the switch. The FAA selected the location of the override means as the most practical and convenient under the emergency circumstances likely to exist at the time it is needed. This location is also consistent with the requirements of § 25.777 (a), (b), and (c). The main factors favoring the location "on or forward" of the thrust lever are the normally forward eye scan pattern and line of vision of the pilot during the takeoff, and the convenience of operation provided in the event the pilot must move his hand from the thrust

levers to use the override means. Generally, the levers are positioned full forward and the instrument panel is near enough so the panel can be used advantageously to mount the override means. With proper design, this also allows the pilot to actuate the device quickly and makes it unnecessary, in some designs, for the pilot to move his hand from the levers. Locations aft of the levers were deemed unacceptable since these locations were not as convenient for operation and did not fulfill the intent of § 25.777.

One commenter suggests deleting "before takeoff" in paragraph I25.5(b)3, which would make the language consistent with another suggestion to expand the scope for using the ATTCS. This suggestion was previously addressed and denied; therefore, the suggestion to delete "before takeoff" is not adopted.

The commenter also suggests changing "verify" to "indicate" in paragraph I25.5(b)(3). A means to verify prior to takeoff that the ATTCS is available when and if needed is considered an important part of the overall system requirements. However, the need for a more specific means of indication is not necessary. The current verification means permits the intent to be accomplished without adding more cockpit "indicators." Reliability is closely related to, although not identical to, probability of availability. Having such means to assure system availability prior to takeoff will inherently minimize the possible inadvertent takeoff with the ATTCS inoperative. This requirement is different from paragraph I25.6(a) which requires an indication that the armed or ready mode of operation has been selected.

One commenter states it is not clear that a means to deactivate the system is necessary or desirable in all instances and recommends the requirement of paragraph I25.5(b)(4) be deleted. The FAA does not agree. A means to deactivate the system is necessary to permit crews to revert to normal procedures in the event of erratic system operation, if ATTCS inoperative takeoffs are made, or if operations using "reduced thrust" procedures (based on the assumed temperature methods), for instance, are scheduled.

One commenter states the requirements for flight characteristics associated with the engine failure are delineated in Part 25 and must be met with or without ATTCS and, therefore, recommends paragraph I25.6(b) be deleted. The intent of this requirement is to provide a warning for the crew that an engine has failed and if the airplane does not yaw, for instance, or provide some other attention getting flight characteristic, then some other warning means must be available to the pilot to advise him of the engine failure and the need to ensure ATTCS power insertion has been achieved on the operating engine(s).

In addition to the changes discussed above, this final rule incorporates a number of clarifying and editorial changes.

Regulatory Evaluation

As discussed above, special conditions have been issued to several applicants to amend or supplement type certificates held on Part 25 airplanes to permit certification with an ATTCS installed. Such special conditions were granted under authority of the Administrator in accordance with § 21.16 because of the novel or unusual design features associated with the installation of this automated system. The ATTCS design features are no longer deemed to be novel or unusual since the standards for their approval are being incorporated directly into Part 25.

In bringing the requirements of the special conditions into Part 25, the FAA is codifying essentially the same optional certification requirements which have been imposed in the last several years. Because the ATTCS airworthiness standards adopted herein will apply only to applicants seeking certification of designs incorporating an ATTCS, and because such systems are optional and not otherwise required for certification, there is no new requirement established by this amendment and no economic impact results from it.

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress in order to ensure, among other things, that small entities are not disproportionately affected by government regulations. The RFA requires agencies specially to review rules which may have a "significant economic impact on a substantial number of small entities." The regulatory evaluation indicated that there is no economic impact associated with the final rule.

Conclusion

For the reasons discussed earlier, the FAA has determined that this document involves a regulation which is not considered to be significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and is not major as defined in Executive Order 12291, and the FAA certifies that this regulation will not have a significant economic impact on a substantial number of small entities since few, if any, small entities are affected.

List of Subjects in 14 CFR Part 25

Aviation safety, Aircraft, Air transportation, Safety, Tires.

Adoption of the Amendment

Accordingly, Part 25 of the Federal Aviation Regulations (FAR) (14 CFR Part 25) is amended as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for Part 25 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983). 49 CFR 1.47(a).

2. By adding a new § 25.904 to read as follows:

§ 25.904 Automatic takeoff thrust control system (ATTCS).

Each applicant seeking approval for installation of an engine power control system that automatically resets the power or thrust on the operating engine(s) when any engine fails during the takeoff must comply with the requirements of Appendix I of this part.

3. By adding a new Appendix I to Part 25 to read as follows:

Appendix I to Part 25—Installation of an Automatic Takeoff Thrust Control System (ATTCS).

I25.1 *General.*

(a) This appendix specifies additional requirements for installation of an engine power control system that automatically resets thrust or power on operating engine(s) in the event of any one engine failure during takeoff.

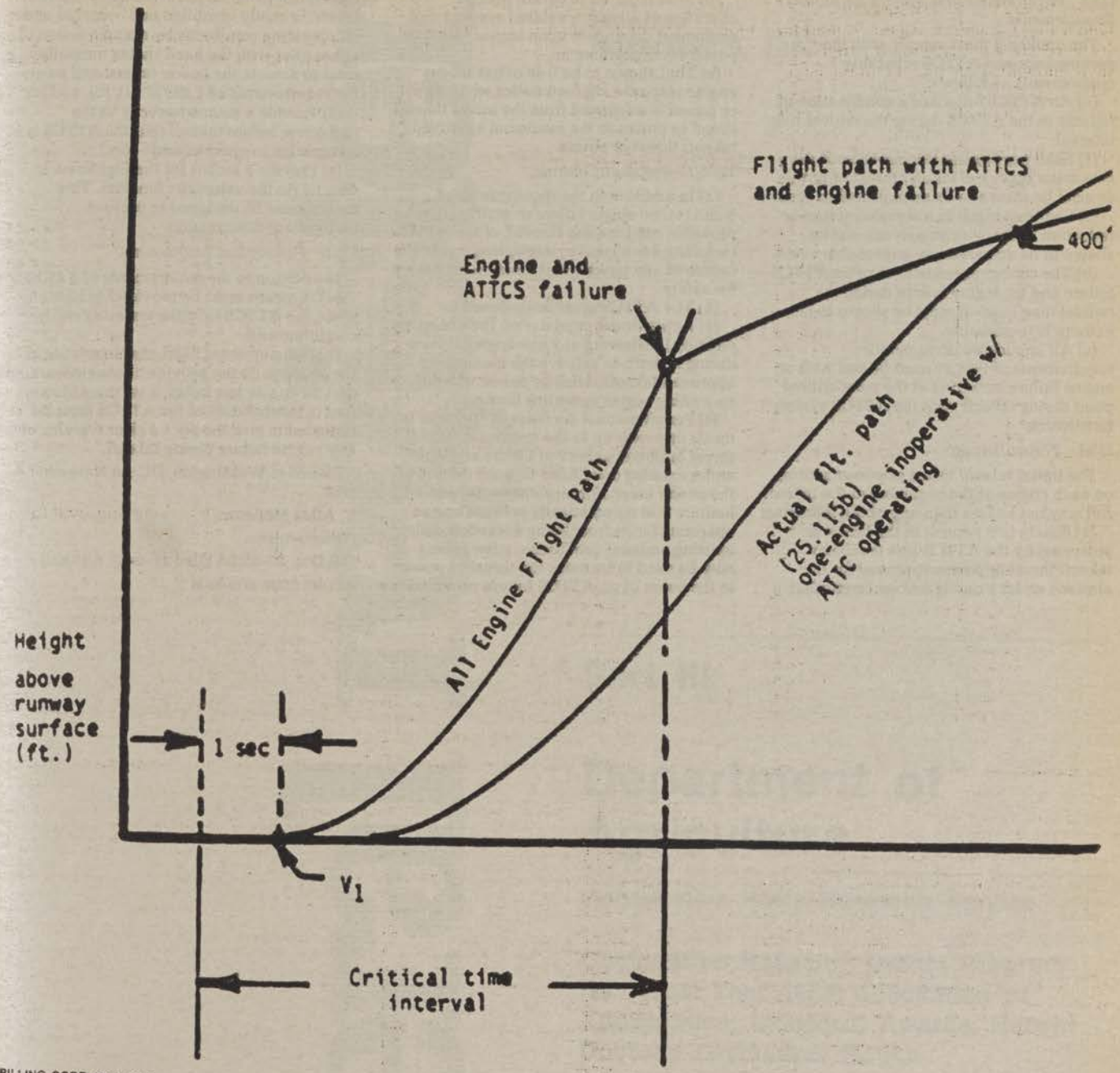
(b) With the ATTCS and associated systems functioning normally as designed, all applicable requirements of Part 25, except as provided in this appendix, must be met without requiring any action by the crew to increase thrust or power.

I25.2 *Definitions.*

(a) *Automatic Takeoff Thrust Control System (ATTCS).* An ATTCS is defined as the entire automatic system used on takeoff, including all devices, both mechanical and electrical, that sense engine failure, transmit signals, actuate fuel controls or power levers or increase engine power by other means on operating engines to achieve scheduled thrust or power increases, and furnish cockpit information on system operation.

(b) *Critical Time Interval.* When conducting an ATTCS takeoff, the critical time interval is between V_1 minus 1 second and a point on the minimum performance, all-engine flight path where, assuming a simultaneous occurrence of an engine and ATTCS failure, the resulting minimum flight path thereafter intersects the Part 25 required actual flight path at no less than 400 feet above the takeoff surface. This time interval is shown in the following illustration:

BILLING CODE 4910-13-M



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I25.3 *Performance and System Reliability Requirements.*

The applicant must comply with the performance and ATTCS reliability requirements as follows:

(a) An ATTCS failure or a combination of failures in the ATTCS during the critical time interval:

(1) Shall not prevent the insertion of the *maximum approved takeoff* thrust or power, or must be shown to be an improbable event.

(2) Shall not result in a significant loss or reduction in thrust or power, or must be shown to be an extremely improbable event.

(b) The concurrent existence of an ATTCS failure and an engine failure during the critical time interval must be shown to be extremely improbable.

(c) All applicable performance requirements of Part 25 must be met with an engine failure occurring at the most critical point during takeoff with the ATTCS system functioning.

I25.4 *Thrust Setting.*

The initial takeoff thrust or power setting on each engine at the beginning of the takeoff roll may not be less than any of the following:

(a) Ninety (90) percent of the thrust or power set by the ATTCS (the maximum takeoff thrust or power approved for the airplane under existing ambient conditions);

(b) That required to permit normal operation of all safety-related systems and equipment dependent upon engine thrust or power lever position; or

(c) That shown to be free of hazardous engine response characteristics when thrust or power is advanced from the initial takeoff thrust or power to the maximum approved takeoff thrust or power.

I25.5 *Powerplant Controls.*

(a) In addition to the requirements of § 25.1141, no single failure or malfunction, or probable combination thereof, of the ATTCS, including associated systems, may cause the failure of any powerplant function necessary for safety.

(b) The ATTCS must be designed to:

(1) Apply thrust or power on the operating engine(s), following any one engine failure during takeoff, to achieve the maximum approved takeoff thrust or power without exceeding engine operating limits;

(2) Permit manual decrease or increase in thrust or power up to the maximum takeoff thrust or power approved for the airplane under existing conditions through the use of the power lever. For airplanes equipped with limiters that automatically prevent engine operating limits from being exceeded under existing ambient conditions, other means may be used to increase the thrust or power in the event of an ATTCS failure provided the means is located on or forward of the power levers; is easily identified and operated under all operating conditions by a single action of either pilot with the hand that is normally used to actuate the power levers; and meets the requirements of § 25.777 (a), (b), and (c);

(3) Provide a means to verify to the flightcrew before takeoff that the ATTCS is in a condition to operate; and

(4) Provide a means for the flightcrew to deactivate the automatic function. This means must be designed to prevent inadvertent deactivation.

I25.6 *Powerplant Instruments.*

In addition to the requirements of § 25.1305:

(a) A means must be provided to indicate when the ATTCS is in the armed or ready condition; and

(b) If the inherent flight characteristics of the airplane do not provide adequate warning that an engine has failed, a warning system that is independent of the ATTCS must be provided to give the pilot a clear warning of any engine failure during takeoff.

Issued in Washington, DC, on November 4, 1987.

T. Allan McArtor,

Administrator.

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federal register

Monday
November 9, 1987

Part III

Department of Agriculture

Cooperative State Research Service

Competitive Research Grants Program for Fiscal Year 1988; Solicitation of Applications; Individual Awards: Recent Doctoral Graduates; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Competitive Research Grants Program for Fiscal Year 1988; Solicitation of Applications; Individual Awards: Recent Doctoral Graduates

This notice supplements and expands the reference to individuals who have recently received a doctoral degree found in the Notice of the Competitive Research Grants Program for Fiscal Year 1988; Solicitation of Applications for the Competitive Research Grants Program, found at 52 FR 29482–29486 (August 7, 1987), to encourage specifically recently trained scientists to submit proposals under that solicitation. Such scientists are encouraged to submit a proposal on a topic and in a research environment of their choice. The topic and the research environment chosen must fall within the guidelines and under the regulations set forth in Part IV in the **Federal Register** on August 7, 1987. The research proposals of recently graduated scientists will be in competition with proposals submitted by other eligible recipients in the same research area. The deadlines for submission of proposals for research grant awards are the same as those published in the **Federal Register** on August 7, 1987 for each of the program areas.

Purpose

The purpose of this notice is to encourage specifically scientists that meet the following criteria to apply for a Competitive Research Grant:

(1) Have earned the doctoral degree in a biological science, physical science or engineering after January 1, 1985, or will have earned this degree not later than June 7, 1988;

(2) Is a United States citizen;

(3) Have made prior arrangements for research with a scientific adviser at the institution where the research is to be done;

(4) Have interests in research that fall within the program areas described in the **Federal Register**, August 7, 1987, notice; and

(5) Have obtained commitments from a State agricultural experiment station, college, university, other research institution or organization, Federal agency, private organization or corporation for the conduct of the research. Proposals to do research at non-United States organizations will not be considered for support.

Many recently graduated scientists may be discouraged from submitting proposals for competitive research grants because of a perception that established scientists at established institutions are favored for such grants. The purpose of this notice is to encourage such recently graduated scientists to enter the competition. While the qualifications of the principal investigator(s) and the institutional experience are two factors that are considered in awarding grants, such factors can be overcome. USDA encourages recently graduated scientists to make arrangements for research with a scientific adviser at an appropriate institution and then to submit a timely competitive research grants proposal detailing both the scientific aspects of the proposal and the arrangements made for conducting such research.

Evaluation and Selection of Individuals

The evaluation of applicants will be based on the criteria set forth at 7 CFR 3200.15, including the scientific merit of the proposal, the objectives and approach of the research, and the human and physical resources. Applicants' qualifications will be evaluated by a panel of research scientists, with representatives of various appropriate disciplines.

Application Procedures and Materials

To be eligible for consideration, an application must be complete. Local reproductions of all forms are acceptable. Applicants must:

(1) Submit, in a single package, one original and 14 copies of the proposal. The proposals shall follow the directions contained in 7 CFR 3200.4 (b)-(d). See the "Research Grant Application Kit" for additional information. The proposals must include a completed Form CSRS–661. Submission of the details of any arrangement with a scientific advisor may help in the evaluation of your proposal.

(2) Submit the materials in an envelope or package, postmarked no later than the appropriate deadline date listed for the program area in which the proposal falls. If complete applications are not postmarked by this date, the documents received will be returned to the senders.

Deadline Dates

Postmark dates	Peer review panels/ program areas	Contacts
Nov. 2, 1987	7.0 Human Requirements for Nutrients	475–5034
Do.	10.0 Molecular and Cellular Mechanisms of Animal Growth and Development	475–3399
Do.	2.0 Plant Genetic Mechanisms and Plant Molecular Biology	475–5042
Nov. 9, 1987	4.0 Photosynthesis	475–5030
Do.	1.2 Entomology/Nematology	475–5114
Dec. 7, 1987	1.1 Plant Pathology/Weed Science	475–4871
Jan. 8, 1988	5.0 Molecular and Cellular Mechanisms of Plant Growth and Development	475–5042
Do.	6.0 Genetic and Molecular Mechanisms Controlling Plant Responses to Physical and Environmental Stresses	475–4871
Jan. 25, 1988	8.0 Animal Science (Reproductive Physiology)	475–5034
Feb. 8, 1988	3.0 Biological Nitrogen Fixation and Metabolism	475–5030
Do.	9.0 Animal Molecular Biology	475–3399

Completed applications and supporting materials are to be sent to: Competitive Research Grants Program, c/o Grants Administrative Management, U.S. Department of Agriculture, Room 005, J.S. Morrill Building, 15th and Independence Avenue., SW., Washington, DC 20251–2200.

Done at Washington, D.C this 2nd day of November 1987.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 87–25857 Filed 11–6–87; 8:45 am]

BILLING CODE 3410–22–M

Federal Register

Monday
November 9, 1987

Part IV

Environmental Protection Agency

Toxic Substances; Premanufacture Notices; Monthly Status Report for June 1987

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53098; FRH-3283-1]

Premanufacture Notices; Monthly Status Report for June 1987

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption requests pending before the Agejcy and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for June 1987.

Nonconfidential portions of the PMNs and exemption requests may be seen in the Public Reading Room NE-G004 at the address below between 8:00 a.m. and 4:00 p.m., Monday thru Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS-53098]" and the specific PMN and exemption request number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, Rm. L-100, 401 M Street, SW., Washington, DC 20460, (202) 554-1305.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-613, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during June; (b) PMNs received previously and still under review at the end of June; (c) PMNs for which the notice review period has ended during June; (d) chemical substances for which EPA has received a notice of commencement to manufacture during June; and (e) PMNs for which the review period has been suspended. Therefore, the June 1987 PMN Status Report is being published.

Dated: October 21, 1987.

Denise Devoe,

Acting Director, Information Management Division, Office of Toxic Substances.

Premanufacture Notices Monthly Status Report June 1987

I. 184 Premanufacture Notices and Exemption Requests Received During the Month

PMN No.
P 87-1189
P 87-1190
P 87-1191
P 87-1192
P 87-1193
P 87-1194
P 87-1195
P 87-1196
P 87-1197
P 87-1198
P 87-1199
P 87-1200
P 87-1201
P 87-1202
P 87-1203
P 87-1204
P 87-1205
P 87-1206
P 87-1207
P 87-1208
P 87-1209
P 87-1210
P 87-1211
P 87-1212
P 87-1213
P 87-1214
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Y 87-172
Y 87-173
Y 87-174
Y 87-175
Y 87-176
Y 87-177
Y 87-178
Y 87-179
Y 87-180

II. 149 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.
P 87-1054
P 87-1055
P 87-1056
P 87-1057
P 87-1058
P 87-1059
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P 87-1159

PMN No.

P 87-1160
P 87-1161
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Y 87-157
Y 87-158

III. 192 Premanufacture Notices and Exemption Requests for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory)

PMN No.

P 87-735
P 87-736
P 87-737
P 87-738
P 87-739
P 87-740
P 87-741
P 87-742
P 87-743
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P 87-916
P 87-917
P 87-918
P 87-919
P 87-920
Y 87-159
Y 87-160
Y 87-161
Y 87-162
Y 87-163
Y 87-164

IV. 26 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture

PMN No.	Identity/generic name	Date of commencement
P 81-198	N-vinyl; L-N-methylacetamide, maleic acid, diisooctyl ester	May 12, 1987.
P 81-448	Generic name: Epoxy modified phenolic resin	May 28, 1987.
P 83-1240	Generic name: Copolymer of alkyl methacrylates and vinyl mono-heterocycle	May 23, 1984.
P 86-3	Generic name: Perfluoroalkyl acrylate copolymer latex	Mar. 11, 1986.
P 86-216	Generic name: Polyurethane prepolymer	Feb. 26, 1986.
P 86-388	Generic name: Polyurethane prepolymer	May 5, 1987.
P 86-895	Generic name: Reaction product of polysubstituted alkanes	Aug. 12, 1986.
P 86-1029	Generic name: Aromatic terpene phenol resin	Feb. 5, 1987.
P 86-1267	Generic name: Poly(oxyalkylene)polyol	May 9, 1987.
P 86-1447	Generic name: Hydroxyl-terminated polyester polyol	May 9, 1987.
P 86-1620	2-Ethylhexyl-cyclohexane	Apr. 27, 1987.
P 86-1694	Generic name. Cyanine dye derived from nitrogen heterocycles	May 5, 1987.
P 86-1707	Generic name: Dialkyl, dihydroxyalkyl quarternary sulfate salt	Apr. 29, 1987.
P 87-93	Generic name: Alkylene diol alkyl ether	Mar. 13, 1987.
P 87-317	Generic name: Isoindoline yellow	May 12, 1987.
P 87-362	Trichloromethylsilane	Apr. 2, 1987.
P 87-471	Generic name: Substituted cyanoacetic acid	June 2, 1987.
P 87-535	Generic name: Vinyl silicone resin	May 4, 1987.
P 87-536	Generic name: Ethoxylated sulfonated polycarboxylate	May 29, 1987.
P 87-601	Generic name: Aromatic polymeric polyester	May 8, 1987.
P 87-658	Generic name: Sulfonated polyacrylate, sodium salt	May 27, 1987.
P 87-710	Generic name: Amine salt, aqueous solution	June 1, 1987.
P 87-712	Generic name: Oleophilic functional zircoaluminate chloride hydroxide polymer	May 27, 1987.
Y 87-115	Generic name: Aliphatic polyether urethane	Mar. 24, 1987.
Y 87-118	Generic name: Polyurethane	Apr. 15, 1987.
Y 87-132	Generic name: Saturated polyester resin	Apr. 15, 1987.
Y 87-133	Generic name: Water reducible alkyd resin	Apr. 15, 1987.

V. 20 Premanufacture Notices for Which the Period Has Been Suspended

PMN No.

P 87-304
P 87-547
P 87-549
P 87-639
P 87-736
P 87-739
P 87-752
P 87-760
P 87-770
P 87-786
P 87-787
P 87-794
P 87-796
P 87-826
P 87-844
P 87-931
P 87-895
P 87-898
P 87-930
P 87-1225

[FR Doc. 87-24944 Filed 11-6-87; 8:45 am]
BILLING CODE 6560-50-M

Federal Register

Monday
November 9, 1987

Part V

Department of Energy

10 CFR Part 1015

Collection of Claims Owed the United States; Notice of Proposed Rulemaking

DEPARTMENT OF ENERGY

10 CFR Part 1015

Collection of Claims Owed the United States

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Justice and the General Accounting Office have jointly issued amended Federal Claims Collection Standards (4 CFR Parts 101 through 105) which reflect changes to the Federal Claims Collection Act of 1966 (31 U.S.C. 3701–3719) made by the passage of the Debt Collection Act of 1982 (Pub. L. 97–365, 96 Stat. 1754). The preamble to the amended Federal Claims Collection Standards instructs individual agencies to adopt their own regulations as to detailed procedures in furtherance of the Federal Claims Collection Standards. Additionally, the Debt Collection Act of 1982 directs, as reflected in the Federal Claims Collection Standards, that each agency must prescribe regulations on collecting by salary and administrative offset and that each agency may prescribe regulations identifying circumstances appropriate to waive collection of interest and charges in conformity with the Federal Claims Collection Standards.

DATE: All comments must be in writing, and received on or before December 9, 1987.

ADDRESS: Send comments to: Elizabeth E. Smedley, Controller, Department of Energy, (Mail Stop MA–3, 4A–139), 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Carl W. Guidice, Office of the Controller, 202–586–4860 (FTS 896–4860).

SUPPLEMENTARY INFORMATION: This proposed rule provides procedures for the Department of Energy (DOE) to collect, compromise, or terminate collection action on all claims owed to the United States arising from activities under DOE jurisdiction. The rule amends Chapter X of Title 10 of the Code of Federal Regulations by adding a new Part 1015. It implements the Federal Claims Collection Act (31 U.S.C. 3701–3719) as amended by the Debt Collection Act of 1982 (Pub. L. 97–365, 96 Stat. 1754). It incorporates the regulations published jointly by the General Accounting Office and the Department of Justice (4 CFR Parts 101–105).

This proposed rule sets forth procedures by which DOE:

(a) Will collect claims owed to the United States;

(b) Will determine and collect interest and other charges on those claims;

(c) Will compromise claims; and

(d) Will refer unpaid claims for litigation.

Executive Order 12291

This rule has been reviewed in accordance with Executive Order 12291. The rule is not classified as a major rule because it does not meet the criteria for major rules established by that Order.

Regulatory Flexibility Act Certification

This rule will not have a significant impact on a substantial number of small entities (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

No additional information and recordkeeping requirements are imposed by this rule.

National Environmental Policy Act

Promulgation of this rule would not represent a major Federal action with significant environmental impact. Therefore, preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) is not required.

Public Comments

Interested persons are invited to participate by submitting data, views, or arguments with respect to the proposed amendment set forth in this notice. Comments should be submitted to Elizabeth E. Smedley, Controller, at the addresss shown in the beginning of this notice. The envelope and documents submitted should be identified with the designation "Collection of Claims Owed the United States." All written comments received on or before the date specified in the beginning of this notice will be carefully assessed and fully considered prior to publication of the proposed amendment as a final rule.

Any person submitting information which that person believes to be confidential and which may be exempt by law from public disclosure should submit one complete copy, as well as one copy from which the information claimed to be confidential has been deleted. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination. This procedure is set forth in 10 CFR 1004.11, 44 FR 1908, January 8, 1979.

The Department has concluded that this proposed rule does not involve a substantial issue of fact or law and that the proposed rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Therefore, pursuant to section 501(c) (42 U.S.C. 7191(c)) of the DOE Organization Act (Pub. L. 95–91; 42 U.S.C. 7101 *et seq.*), the Department does not plan to hold a public hearing on this proposed rule.

List of Subjects in 10 CFR Part 1015

Disclosures and referrals, Credit reports, Claims.

In consideration of the foregoing, the Department of Energy hereby proposes to amend Chapter X of Title 10 of the Code of Federal Regulations by adding a new Part 1015 as set forth below.

Issued in Washington, DC, October 30, 1987.

Lawrence F. Davenport,

Assistant Secretary, Management and Administration.

Part 1015 is proposed to be added to 10 CFR Chapter X to read as follows:

PART 1015—COLLECTION OF CLAIMS OWED THE UNITED STATES

Sec.

Authority: 31 U.S.C. 3701–3719; Pub. L. 97–365, 96 Stat. 1754.

§ 1015.1 Purpose.

This part establishes procedures for the Department of Energy (DOE) to collect, compromise, or terminate collection action on claims of the United States for money or property arising from activities under DOE jurisdiction. It specifies the agency procedures and the rights of the debtor applicable to claims for the payment of debts owed to the United States. It incorporates, as appropriate, the Federal Claims Collection Standards (4 CFR Parts 101 through 105). It sets forth procedures by which DOE:

(a) Will collect claims owed to the United States;

(b) Will determine and collect interest and other charges on those claims;

(c) Will compromise claims; and

(d) Will refer unpaid claims for litigation.

§ 1015.2 Applicability.

(a) This part applies to all claims due the United States under the Federal Claims Collection Act, as amended by the Debt Collection Act (31 U.S.C. 3701–3719), arising from activities under the jurisdiction of DOE unless such claims are otherwise subject to applicable laws or regulations. For purposes of this part, claims include, but are not limited to, amounts due the United States from fees, loans, loan guarantees, overpayments, fines, civil penalties, damages, interest, sale of products and services, and other sources. The failure of DOE to include in this part any provision of the Federal Claims Collection Standards does not prevent DOE from applying the provision. The failure of DOE to comply with any provision of this part or of the Federal Claims Collection Standards shall not be available as a defense to any debtor in terms of affecting the merits of the underlying indebtedness.

(b) All claims due from DOE employees will be collected in accordance with DOE 2200.2, Collection From Employees for Indebtedness to the United States, or successor internal directives. DOE 2200.2 provides for hearings as required under 5 U.S.C. 5514 and 4 CFR Part 102.

(c) Claims arising from the audit of transportation accounts pursuant to 31 U.S.C. 3726 shall be determined, collected, compromised, terminated, or settled in accordance with regulations published under the authority of 31 U.S.C. 3726 (see 41 CFR Parts 101 through 141, administered by the Director, Office of Transportation Audits, General Services Administration) and are otherwise excepted from these regulations.

(d)(1) Claims arising out of acquisition contracts, subcontracts, and purchase orders which are subject to the Federal Acquisition Regulation Systems, including the Federal Acquisition Regulation, 48 CFR Subpart 32.6, and the Department of Energy Acquisition Regulations, 48 CFR Subpart 932.6, shall be determined or settled in accordance with those regulations.

(2) Claims arising out of financial assistance instruments (e.g., grants, subgrants, contracts under grants, cooperative agreements, and contracts under cooperative agreements) and loans and loan guarantees shall be determined or settled in accordance with internal DOE directives. Relevant provisions currently are set forth primarily at 10 CFR 600.26 and 10 CFR 600.112(f).

§ 1015.3 Demand for payment.

(a) A total of three progressively stronger written demands at not more than approximately 30-day intervals will normally be made unless a response or other information indicates that a further demand would be futile or unnecessary. When necessary to protect the Government's interest, written demand may be preceded by other appropriate actions under the Federal Claims Collection Standards, including immediate offset, as provided in paragraph (d)(2) of this section, and/or referral for litigation.

(b) The initial written demand for payment should inform the debtor of the following:

(1) The basis for the claim;

(2) The amount of the claim;

(3) Any right to a review of the claim within DOE;

(4) The date by which DOE expects full payment and after which the account is considered delinquent (this is the due date and is normally not more than 30 days from the date the written initial demand was either mailed, hand-delivered, or otherwise transmitted);

(5) The provision for interest, penalties, and administrative charges in accordance with 31 U.S.C. 3717, if payment is not received by the due date (see § 1015.4 for details regarding interest, administrative charges, and penalty charges); and

(6) The DOE's intent to utilize any applicable collection actions made available by the Debt Collection Act of 1982 and the Federal Claims Collection Standards. When determined necessary to protect the Government's interest, DOE may initiate any of the actions available under the referenced Act and/or Standards. These actions may include, but are not limited to, immediate referral for litigation, administrative offset (as provided in paragraph (d)(2) of this section), reports to credit bureaus, and referrals to collection agencies.

(c) If the debt is not paid by the date specified in the initial written demand, two progressively stronger demands shall be sent to the debtor unless a response or other information indicates that additional written demands would either be futile or unnecessary. These written demands will be timed so as to provide an adequate period of time within which the debtor could be expected to respond. While shorter periods of time are acceptable, intervals of approximately 30 days should be sufficient. Depending on the circumstances of the particular case, the demand letters may state:

(1) The amount of any late payment charge (interest, penalties, and administrative charges) added to the debt;

(2) That the delinquent debt may be reported to a credit reporting agency;

(3) That the debt may be referred to a private collection agency for collection;

(4) That the debt may be collected through administrative offset in accordance with the Federal Claims Collection Standards (4 CFR Part 102); and

(5) That the debt may be referred for litigation.

(d)(1) Before collecting a debt by administrative offset, the debtor shall be advised of the following information either in the initial written demand and/or subsequent written demands, or by separate notice of DOE's intent to collect the debt by administrative offset:

(i) Nature and amount of the debt;

(ii) Payment due date;

(iii) The intent of DOE to collect by administrative offset (in accordance with the Federal Claims Collection Standards (4 CFR Part 102)), including requesting other Federal agencies to help in the offset whenever possible, if the debtor has not made voluntary payment, has not requested a hearing or review of the claim within DOE as set out in paragraph (d)(1)(v) of this section, or has not made arrangements for payment as set out in paragraph (d)(1)(vi) of this section by the payment due date;

(iv) The right of the debtor to inspect and copy the DOE records related to the claim. Any costs associated therewith shall be borne by the debtor. The debtor shall give reasonable notice in advance to DOE of the date upon which it intends to inspect and copy the records involved;

(v) The right of the debtor to a hearing or review of the claim. DOE shall provide the debtor with a reasonable opportunity for an oral hearing when: An applicable statute authorizes or requires DOE to consider waiver of the indebtedness involved, the debtor requests waiver of the indebtedness, and the waiver determination turns on an issue of credibility or veracity; or the debtor requests reconsideration of the debt and DOE determines that the question of indebtedness cannot be resolved by review of the documentary evidence, for example, when the validity of the debt turns on an issue of credibility or veracity. Unless otherwise required by law, an oral hearing under this section is not required to be a formal evidentiary-type hearing, although DOE will document all significant matters discussed at the

hearing. This section does not require an oral hearing with respect to debt collection systems in which determinations of indebtedness or waiver rarely involve issues of credibility or veracity and DOE has determined that review of the written record is ordinarily an adequate means to correct prior mistakes. In administering such a system, DOE is not required to sift through all of the requests received in order to accord oral hearings in those few cases which may involve issues of credibility or veracity. In those cases where an oral hearing is not required by this section, DOE will accord the debtor a "paper" hearing, that is, DOE will make its determination on the request for waiver or reconsideration based upon a review of the written record. If the claim is disputed in full or in part, the debtor's written response to the demand must include a request for review of the claim within DOE. If the debtor disputes the claim, the debtor shall explain why the debt is incorrect. The explanation should be supported by affidavits, canceled checks, or other relevant information. The written response must reach DOE by the payment due date. A written response received after the payment due date may be accepted if the debtor can show that the delay was due to circumstances beyond the debtor's control or failure to receive notice of the time limit. The debtor's written response shall state the basis for the dispute. If only part of the claim is disputed, the undisputed portion should be paid by the date stated in the initial demand. DOE shall notify the debtor, within 30 days whenever feasible, whether DOE's determination of the debt has been sustained, amended, or canceled. If DOE either sustains or amends its determination, it shall notify the debtor of its intent to collect by administrative offset unless payment is received within 15 days of the mailing of the notification of its decision; and

(vi) The right of the debtor to offer to make a written agreement to repay the amount of the claim. The acceptance of such an agreement is discretionary with DOE. If the debtor requests a repayment arrangement because a payment of the amount due would create a financial hardship, DOE will assess the debtor's financial condition based on financial statements submitted by the debtor. Dependent upon the evaluation of the financial condition of the debtor, DOE and the debtor may agree to a written installment repayment schedule. The debtor should execute a confess-judgment note which specifies all of the terms of the arrangement. The size and frequency of the installment payments should bear a reasonable relation to the size of the debt and the debtor's ability to pay. Interest, administrative charges, and penalty charges shall be provided for in the note. The debtor shall be provided with a written explanation of the consequences of signing a confess-judgment note. The debtor shall sign a statement acknowledging receipt of the written explanation which shall provide that the statement was read and understood before execution of the note and that the note is being signed knowingly and voluntarily. Some form of objective evidence of these facts will be maintained in DOE's file on the debtor.

(2) In cases in which the procedural requirements specified in this paragraph have previously been provided to the debtor in connection with the same debt under some other statutory or regulatory authority, such as pursuant to a notice of audit disallowance, DOE is not required to duplicate those requirements before taking administrative offset. Furthermore, DOE may effect administrative offset against a payment to be made to a debtor prior to completion of the required procedures if failure to take the offset would substantially prejudice the Government's ability to collect the debt and the time before the payment is to be made does not reasonably permit the completion of those procedures. Such prior offset will be promptly followed by completion of those procedures. Amounts recovered by administrative offset found not to be owed to DOE shall be promptly refunded.

(e) At any time during the collection cycle, DOE may take any of the actions authorized under this section or under the Federal Claims Collection Standards. These actions include, but are not limited to, reports to credit bureaus, referrals to collection agencies, termination of contract, debarment, and administrative offset, as authorized in 31 U.S.C. 3701–3719.

§ 1015.4 Interest, administrative charges, and penalty charges.

(a) DOE shall assess interest on unpaid claims at the rate of the current value of funds to the Treasury as prescribed by the Secretary of the Treasury on the date the computation of interest begins unless a higher rate of interest is necessary to protect the interests of the Government. DOE shall assess administrative charges to cover the costs of processing and handling overdue claims. Administrative charges will be assessed concurrent with the interest assessment and will be based on an average of additional costs incurred in processing and handling claims in similar stages of delinquency. DOE shall assess penalty charges of six percent a year on any part of a debt more than 90 days past due. Such assessment will be retroactive to the first day the debt became delinquent. The imposition of interest, administrative charges, and penalty charges is made in accordance with 31 U.S.C. 3717.

(b) Interest will be computed from the date the initial demand is mailed, hand-delivered, or otherwise transmitted to the debtor. If the claim or any portion thereof is paid within 30 days after the date on which interest began to accrue, the associated interest shall be waived. This period for waiver of interest may be extended in individual cases if there is good cause to do so and it is in the public interest. Interest will only be computed on the principal of the claim and the interest rate will remain fixed for the duration of the indebtedness, except where a debtor has defaulted on a repayment agreement and seeks to enter into a new agreement. A new rate which reflects at a minimum the current value of funds to the Treasury at the time the new agreement is executed may be set, if applicable, and interest on interest and related charges may be charged where the debtor has defaulted on a previous repayment agreement. Charges which accrued but were not collected under the defaulted agreement shall be added to the principal to be paid under the new repayment schedule.

(c) DOE may waive interest, administrative charges, or penalty charges if it finds that one or more of the following conditions exist:

(1) The debtor is unable to pay any significant sum toward the claim within a reasonable period of time;

(2) Collection of interest, administrative charges, or penalty charges will jeopardize collection of the principal of the claim; or

(3) It is otherwise in the best interests of the United States, including the situation in which an offset or installment payment agreement is in effect.

(d) Exemptions. (1) The provisions of 31 U.S.C. 3717 do not apply:

(i) To debts owed by any State or local government;

(ii) To debts arising under contracts which were executed prior to, and were in effect on (i.e., were not completed as of) October 25, 1982;

(iii) To debts where an applicable statute, regulation required by statute, loan agreement, or contract either prohibits such charges or explicitly fixes

the charges that apply to the debts involved; or

(iv) Debts arising under the Social Security Act, the Internal Revenue Code of 1954, or the tariff laws of the United States.

(2) DOE may, however, assess interest and related charges on debts which are not subject to 31 U.S.C. 3717 to the extent authorized under the common law or other applicable statutory authority.

§ 1015.5 Responsibility for collection.

(a) Heads of DOE Headquarters Elements and Field Elements or their designees must immediately notify the appropriate finance office of claims arising from their operations. A claim will be recorded and controlled by the responsible finance office upon receipt of documentation from a competent authority establishing the amount due.

(b) The collection of claims under the control of the finance offices will be aggressively pursued in accordance with the provisions of Part 102 of the Federal Claims Collection Standards (4 CFR Part 102). Whenever feasible, debts owed to the United States, together with interest, administrative charges, and penalty charges, should be collected in full in one lump sum. If the debtor requests installment payments, the finance offices shall be responsible for determining the financial hardship of debtors and, when appropriate, shall arrange installment payment schedules. Claims which cannot be collected directly or by administrative offset shall be written off as administratively uncollectible in accordance with authority delegated to the Heads of DOE Field Elements and the Controller.

(c) The Controller or designee, in consultation with the General Counsel or other designated Counsel at Headquarters, or Heads of DOE Field Elements or designees, in consultation with the Chief Counsels or other designated Counsels in field locations, may compromise or suspend or terminate collection action on referred claims that do not exceed $20,000, exclusive of interest, penalties, and administrative charges, in accordance with the Federal Claims Collection Act and the Federal Claims Collection Standards Parts 103 and 104 (4 CFR Parts 103 and 104).

(d) Recommendations to compromise or suspend or terminate collection action on claims that exceed $20,000, exclusive of interest, penalties, and administrative charges, will be referred to the Department of Justice consistent with paragraph (c) of this section and in accordance with the Federal Claims Collection Act and the Federal Claims Collection Standards. Referrals to the Department of Justice shall be made in accordance with 4 CFR Part 105 of the Federal Claims Collection Standards.

§ 1015.6 Collection by administrative offset.

(a) *Administrative offset.* (1) Whenever feasible and not otherwise prohibited, after a debtor fails to pay the claim, request a review of the claim, or make an arrangement for payment, DOE shall collect claims under this part by means of administrative offset against obligations of the United States to the debtor, pursuant to 31 U.S.C. 3716. In appropriate circumstances, DOE may give due consideration to the debtor's financial condition or whether offset would tend to substantially interfere with or defeat the purposes of the program authorizing the payments against which offset is contemplated. For example, under a grant program in which payments are made in advance of the grantee's performance, offset will normally be inappropriate. This concept generally does not apply, however, where payment is in the form of reimbursement. Determination as to whether collection by administrative offset is feasible will be made by DOE on a case-by-case basis, in the exercise of sound discretion. DOE will consider not only whether administrative offset can be accomplished both practically and legally, but also whether offset is best suited to further and protect all of the Government's interests.

(2) DOE will not initiate administrative offset to collect a debt under 31 U.S.C. 3716 more than 10 years after the Government's right to collect the debt first accrued, unless facts material to the Government's right to collect the debt were not known and could not reasonably be known by the DOE official or officials who were charged with the responsibility to discover and collect such debt.

(3) DOE is not authorized by 31 U.S.C. 3716 to use administrative offset with respect to:

(i) Debts owed by any State or local government;

(ii) Debts arising under or payments made under the Social Security Act, the Internal Revenue Code of 1954, or the tariff laws of the United States; or

(iii) Any case in which collection of the type of debt involved by administrative offset is explicitly provided for or prohibited by another statute.

However, unless otherwise provided for by contract or law, debts or payments which are not subject to administrative offset under 31 U.S.C. 3716 may be collected by administrative offset under the common law or other applicable statutory authority.

(4) Salary offsets and offsets against military retired pay are governed by 5 U.S.C. 5514.

(5) Collection by administrative offset of amounts payable from the Civil Service Retirement and Disability Fund will be made pursuant to 31 U.S.C. 3716 and 5 U.S.C. 5705 and regulations thereunder.

(6) Collections made by administrative offset under 31 U.S.C. 3716, shall be in accordance with the procedural requirements set forth in § 1015.3(d) of this part.

(b) *Interagency requests.* (1) Requests to DOE by other Federal agencies for administrative offset should be in writing and forwarded to the Department of Energy, Office of the Controller (MA–3), 1000 Independence Avenue, SW., Washington, DC 20585.

(2) Requests by DOE to other Federal agencies holding funds payable to the debtor should be in writing and forwarded, certified return receipt, as specified by that agency in its regulations. If such rule is not readily available or identifiable, the request should be submitted to that agency's office of legal counsel with a request that it be processed in accordance with their internal procedures.

(3) Requests to DOE should be processed within 30 calendar days of receipt. If such processing is not practical or feasible, notice to extend the time period for another 30 calendar days should be forwarded 10 calendar days prior to the expiration of the first 30-day period.

(4) Requests to or from DOE must be accompanied by a written certification that the debtor owes the debt (including the amount) and that the requesting agency has fully complied with the provisions of 4 CFR 102.3. DOE will cooperate with other agencies in effecting collection unless the offset would be otherwise contrary to law.

(5) If administrative offset cannot be effected through DOE or other known Federal agency accounts payable, then DOE will place a complete stop order against amounts otherwise payable to the debtor by placing the name of that debtor on the Department of the Army "List of Contractors Indebted to the United States." If any amounts are discovered under this procedure, they will be offset against the debt owed to DOE provided that applicable provisions of 4 CFR Parts 101 through 105 have been met and the offset would not otherwise be contrary to law.

§ 1015.7 Settlement of claims.

(a) In accordance with the provisions of 4 CFR Part 103, DOE officials listed in § 1015.5(c) of this part may settle claims not exceeding $20,000, exclusive of interest, penalties, and administrative charges, by compromise at less than the principal of the claim if:

(1) The debtor shows an inability to pay the full amount within a reasonable time or refuses to pay the claim in full and DOE is unable to enforce collection in full within a reasonable time by enforced collection proceedings;

(2) There is real doubt concerning the Government's ability to prove its case in court for the full amount claimed, either because of the legal issues involved or a bona fide dispute as to the facts;

(3) The amount of the claim does not justify the actual foreseeable cost of collecting the claim; or

(4) A combination of the above reasons.

(b) DOE may suspend or terminate collection action in accordance with the terms and procedures contained in 4 CFR Part 104.

§ 1015.8 Referral for litigation.

Claims on which aggressive collection action has been taken in accordance with 4 CFR Part 102 and which cannot be compromised or on which collection action cannot be suspended or terminated under 4 CFR Parts 103 and 104 will be referred to the General Accounting Office or the Department of Justice, as appropriate, in accordance with the procedures in 4 CFR Part 105.

§ 1015.9 Disclosure to consumer reporting agencies and referral to collection agencies.

DOE may disclose delinquent debts to consumer reporting agencies in accordance with 31 U.S.C. 3711(f) and may refer delinquent debts to debt collection agencies under the revised Federal Claims Collection Standards and other applicable authorities. Information will be disclosed to reporting agencies and referred to collection agencies in accordance with the terms and conditions of agreements entered into between the General Services Administration, DOE, and the reporting and collection agencies. The terms and conditions of such agreements shall specify that all of the rights and protections afforded to the debtor under 31 U.S.C. 3711(f) have been fulfilled.

§ 1015.10 Credit report.

In order to aid DOE in making appropriate determinations as to the collection and compromise of claims; the collection of interest, administrative charges, and penalty charges; the use of administrative offset; the use of other collection methods; and the likelihood of collecting the claim, DOE may institute a credit investigation of the debtor at any time following receipt of knowledge of the claim.

[FR Doc. 87-25850 Filed 11-6-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Register

Monday
November 9, 1987

Part VI

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 773

Surface Coal Mining and Reclamation Operations; Requirements for Permits and Permit Processing; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 773

Surface Coal Mining and Reclamation Operations; Requirements for Permits and Permit Processing

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) of the United States Department of the Interior (DOI) proposes to revise the regulatory prohibition on mining without a permit more than eight months after approval of the State or Federal regulatory program. The grace period will be available only to holders of initial regulatory program permits. This amendment responds to a decision rendered in Federal district court. The effect of this change is that any existing mining operation that has neither an initial nor a permanent program permit will have to cease operations and remain shut down until a permanent program permit is issued. This proposal is not intended to affect coal preparation plants separately authorized to operate under 30 CFR 785.21(e).

DATES: *Written comments:* OSMRE will accept written comments on the proposed rule until 4:00 p.m. Eastern time on January 19, 1988.

Public hearings: Upon request, OSMRE will hold a public hearing on the proposed rule in Washington, DC at 9:30 a.m. Eastern time on January 12, 1988. Upon request, OSMRE will also hold public hearings in the States of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee and Washington at times and on dates to be announced prior to the hearings. OSMRE will accept requests for public hearings at this or other locations until 4:00 p.m. Eastern time on December 9, 1987. Individuals wishing to attend but not testify at any hearing should contact the person identified under "**FOR FURTHER INFORMATION CONTACT**" beforehand to verify that the hearing will be held.

ADDRESSES: *Written comments:* Hand-deliver to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131, 1100 L Street, NW., Washington, DC; or mail to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131–L, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public hearings: Department of the Interior Auditorium, 18th and C Streets, NW., Washington, DC. The addresses for any hearings to be held in other locations will be announced prior to the hearings.

Requests for public hearings: Submit requests orally or in writing to the person and address specified under "**FOR FURTHER INFORMATION CONTACT**."

FOR FURTHER INFORMATION CONTACT: Patrick W. Boyd, Branch of Federal and Indian Programs, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240, Telephone: (202)343-4561.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Written Comments

Written comments submitted on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where practicable, commenters should submit three copies of their comments (see "**ADDRESSES**"). Comments received after the close of the comment period or delivered to addresses other than those listed above (see "**DATES**") may not necessarily be considered or included in the Administrative Record for the final rule.

Public Hearings

OSMRE will hold public hearings on the proposed rule on request only. The time and date scheduled for the Washington, DC hearing are specified previously in this notice (see "**DATES**" and "**ADDRESSES**"). The times, dates and addresses for any other hearings have not yet been scheduled, but will be announced in the **Federal Register** at least seven days prior to any hearings which are held at these locations.

Any person interested in participating at a hearing at a particular location should inform Mr. Boyd (see "**FOR FURTHER INFORMATION CONTACT**") either orally or in writing of the desired hearing location by 4:00 p.m. Eastern time December 9, 1987. If no one has contacted Mr. Boyd to express an interest in participating in a hearing at a given location by that date, the hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held and the results included in the Administrative Record.

If a hearing is held, it will continue until all persons in attendance wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSMRE requests that persons who testify at a hearing give the transcriber a copy of their testimony. To assist OSMRE in preparing appropriate questions, OSMRE also requests that persons who plan to testify submit to OSMRE at the address previously specified for the submission of written comments (see "**ADDRESSES**") an advance copy of their testimony.

II. Background

Section 502(d) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*, prohibits the conduct of surface coal mining operations without a permanent program permit for more than eight months after approval of the State or Federal regulatory program. All operators who expect to continue to operate eight months after the Secretary of the Interior approves a State regulatory program (primacy) or implements a Federal program must submit a permit application to the regulatory authority within two months following primacy or the implementation of a Federal program. In addition, the regulatory authority must process, and grant or deny, permanent program permits within the eight-month period after primacy or the implementation of a Federal program for the operators who wish to continue to operate beyond that period.

However, section 506(a) of SMCRA recognizes the possibility that this task may be unachievable in some States due to workforce limitations and potential administrative delay in permit processing. As a result, that section provides that certain operators may continue to operate under their existing initial program permits after the eight-month period elapses. Operators holding an initial program permit may continue to operate beyond the eight-month period if they have filed an application, within the two-month deadline, for a permanent program permit and no initial administrative decision has been rendered.

On September 18, 1978, OSMRE proposed a rule to implement the section 506(a) exception. See the discussion at 43 FR 41687. The final rule was published on March 13, 1979. See 44 FR 15014 for the discussion and 44 FR 15350 for the rule. The final rule provided that an operator holding an initial program permit could continue operating after

the eight-month period if a timely and complete permanent program permit application had been filed.

On June 25, 1982, OSMRE proposed to revise this rule by providing a second exception to the prohibition on mining without a permit eight months after primacy or the implementation of a Federal program. Under the proposal, in addition to those holding a permit, any person authorized under the initial regulatory program to conduct surface coal mining operations could also continue operations beyond the eight-month period provided certain conditions were met. The purpose of the proposed change was to recognize that some existing operations required to have permits under the permanent regulatory program might not have been required to have permits under the initial regulatory program (47 FR 27694). The final rule, unchanged from the proposed rule, was published on September 28, 1983. Although the rule was adopted unchanged, one commenter did suggest that allowing continued operation of "unpermitted but authorized" mining operations exceeded the requirements of SMCRA. In disagreeing with the commenter, OSMRE stated that it would be "inequitable and contrary to [the intent of SMCRA] to deny some operators the privilege of continuing operations solely because they were not required to have a permit during the initial program." 48 FR 44354.

Subsequently, the regulation was challenged in the U.S. District Court for the District of Columbia. The court concluded that the rule "does not address the plain language of section 506(a) and Congress' express requirement that only permit holders be extended the grace period." It remanded the rule to the Secretary. *In Re: Permanent Surface Mining Regulation Litigation (II)*, No. 79–1144, (D.D.C.) July 15, 1985, Mem. Op. at 133.

III. Discussion of Proposed Rule

Section 506(a) of SMCRA prohibits mining without a permit eight months after the permanent regulatory program has been approved, unless an operator holding an initial program permit has applied for a permanent program permit but an initial administrative decision has not been rendered before the eight-month period expires. OSMRE is proposing to return to the language of the 1979 regulation, deleting the remanded exception for those who were authorized to conduct surface coal mining operations, but who did not have an initial program permit. This action would bring the rule into conformance with the court order.

The proposed rule is not intended to limit the responsibility of operators for the reclamation of surface coal mining operations. Operators must reclaim all operations that were not required to obtain permits under the initial program and that have ceased or will cease operation rather than obtain a permanent program permit. This rule is not intended to affect coal preparation plants for which a separate interim authorization to operate is found in 30 CFR 785.21(e). To avoid confusion, specific reference is made to the coal preparation plant regulations in the proposed rule language.

Subparagraphs (i), (ii) and (iii) under 30 CFR 773.11(b)(2) would remain unchanged. These paragraphs qualify the exception by establishing three requisite conditions. Under the first, the operator must file the permanent program permit application within two months following the effective date of the program. In addition, the regulatory authority must have not yet rendered an initial administrative decision on the application. Also, the surface coal mining operation must be in compliance with all applicable laws, rules, and permit terms and conditions.

IV. Procedural Matters

Effect in Federal Program States and on Indian Lands

The proposed rule would apply through cross-referencing in those States with Federal programs. They include Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. The Federal programs for these States appear at 30 CFR Parts 910, 912, 921, 922, 933, 937, 939, 941, 942, and 947 respectively. The proposed rules also apply through cross-referencing to Indian lands under Federal programs for Indian lands as provided in 30 CFR Part 750. Comments are specifically solicited as to whether unique conditions exist in any of these States or on Indian lands which should be reflected as changes to the national rules or as specific amendments to any or all of the Federal programs or the Indian lands program. OSMRE is currently preparing a proposal to implement a Federal program for the State of California. Comments are also specifically solicited as to whether unique conditions exist in California that should be reflected in the proposed Federal program for that State.

Federal Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

Executive Order 12291 and Regulatory Flexibility Act

The DOI has determined that this document is not a major rule under the criteria of Executive Order 12291 (February 17, 1981) and certifies that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The rule would affect a relatively small number of surface coal mining operations. The rule does not distinguish between small and large entities. The economic effects of the proposed rule are estimated to be minor and no incremental economic effects are anticipated as a result of the rule.

National Environmental Policy Act

OSMRE has prepared a draft environmental assessment (EA), and has made an interim finding that the proposed rule would not significantly affect the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). It is anticipated that a finding of no significant impact will be approved for the final rule in accordance with OSMRE procedures under NEPA. The EA is on file in the OSMRE Administrative Record at the address specified previously (see "**ADDRESSES**"). An EA will be completed on the final rule and a finding made on the significance of any resulting impacts prior to promulgation of the final rule.

Author

The principal author of this rule is Patrick W. Boyd, Branch of Federal and Indian Programs, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240, Telephone: (202) 343–4561.

List of Subjects in 30 CFR Part 773

Reporting and recordkeeping requirements, Surface mining, Underground mining.

Accordingly, it is proposed to amend 30 CFR Part 773 as set forth below:

Dated: October 16, 1987.

James E. Cason,

Acting Assistant Secretary—Land and Minerals Management.

PART 773—REQUIREMENTS FOR PERMITS AND PERMIT PROCESSING

1. The authority citation for Part 773 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, 16 U.S.C. 470 *et seq.*, 16 U.S.C. 1531 *et seq.*, 16 U.S.C.

661 *et seq.*, 16 U.S.C. 703 *et seq.*, 16 U.S.C. 668a *et seq.*, 16 U.S.C. 449 *et seq.*, 16 U.S.C. 470aa *et seq.*, and Pub. L. 100-34.

2. The introductory language to paragraph (b)(2) of § 773.11 is revised to read as follows:

§ 773.11 Requirements to obtain permits.

(b) * * *

(2) Except for coal preparation plants separately authorized to operate under 30 CFR 785.21(e), a person conducting surface coal mining operations, under a permit issued or amended by the regulatory authority in accordance with the requirements of section 502 of the Act, may conduct such operations beyond the period prescribed in paragraph (a) of this section if—

* * * * *

[FR Doc. 87-25918 Filed 11-6-87; 8:45 am]

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Federal Register

Monday
November 9, 1987

Part VII

Federal Reserve System

12 CFR Part 226

Truth in Lending; Competitive Equality Banking Act; Limitations on Interest Rates; Final Rule

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Docket No. R-0613]

Truth in Lending; Competitive Equality Banking Act; Limitations on Interest Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is revising Regulation Z (the regulation that implements the Truth in Lending Act) to implement section 1204 of the Competitive Equality Banking Act of 1987. Section 1204 provides that, effective December 9, 1987, any adjustable rate mortgage loan originated by a creditor must include a limitation on the maximum interest rate that may apply during the term of the loan. The final rule, incorporating the new law into Regulation Z, limits the scope of section 1204 to dwelling-secured consumer credit, that is subject to the Truth in Lending Act and Regulation Z, in which a creditor may make interest rate changes during the term of the credit obligation—whether those changes are tied to an index or formula or are within the creditor's discretion. The rule applies the statutory requirement to both closed-end and open-end credit. As a result, effective December 9, 1987, creditors are required to set a lifetime maximum interest rate on all credit obligations secured by a dwelling that require variable-rate disclosures under Regulation Z, where the interest rate may increase. In addition, creditors offering open-end lines of credit secured by a dwelling in which the creditor has the contractual right to change the interest rate—the periodic rate and corresponding annual percentage rate—on an account are also required to set a lifetime maximum interest rate applicable during the plan. The rule applies only to credit obligations entered into prior to December 9, 1987.

Creditors must specify the lifetime maximum rate of interest that may be imposed on obligations subject to section 1204 in their credit contracts (the instrument signed by the consumer that imposes personal liability). Determination of the maximum rate is within the creditor's discretion. Until October 1, 1988, compliance with section 1204—specifying the maximum interest rate in credit contracts—meets the requirement in Regulation Z that creditors disclose limitations on rate increases as part of the variable rate disclosures for open-end credit plans and closed-end credit transactions.

EFFECTIVE DATE: December 9, 1987.

FOR FURTHER INFORMATION CONTACT: Adrienne D. Hurt, Senior Attorney, Division of Consumer and Community Affairs, at (202) 452–2412 or 452–3867; for the hearing impaired *only*, contact Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452–3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

1. Background

On August 10, 1987, the Competitive Equality Banking Act of 1987, Pub. L. 100–86, 101 Stat. 552, was enacted into law. Section 1204 of the act provides that "[a]ny adjustable rate mortgage loan originated by a creditor shall include a limitation on the maximum interest rate that may apply during the term of the mortgage loan." (The law does not set the maximum interest rate.) An adjustable rate mortgage loan is defined in section 1204 as "any loan secured by a lien on a one-to-four family dwelling unit, including a condominium unit, cooperative housing unit, or mobile home, where the loan is made pursuant to an agreement under which the creditor may, from time to time, adjust the rate of interest." Creditors who regularly extend credit for personal, family or household purposes are subject to the statutory requirement.

Section 1204 further provides that failure to comply with the section is to be treated as a violation of the Truth in Lending Act (TILA); it specifically refers to the civil liability and administrative enforcement provisions of the act, sections 130 and 108, respectively. The law directs the Board to prescribe regulations to carry out its purposes. The law will become effective on December 9, 1987.

Given the broad language of section 1204, most of the questions about the law have concerned the scope of its coverage. On September 15, 1987, the Board published for public comment a proposal to amend Regulation Z to incorporate the substance of section 1204 into the regulation (52 FR 34811). The Board proposed to limit the scope of the statute to adjustable (interest) rate, dwelling-secured consumer credit obligations that are subject to the TILA and Regulation Z—both open-end and closed-end credit—entered into prior to December 9, 1987. Therefore, Regulation Z definitions, exemptions, and interpretations would apply to the new rule, where applicable. Under the proposal, creditors would be required to specify a lifetime interest rate cap in their credit contracts.

The Board received approximately 135 public comments on the proposed amendment. A majority of the commenters agreed with the Board's interpretation of the law's general coverage and the Board's proposed rule for implementing the law. Some commenters disagreed with the Board's interpretation that section 1204 applies to open-end dwelling-secured plans that are not variable rate for purposes of TILA disclosures, but in which the creditor has the contractual right to change the terms of the plan, including the right to make interest rate changes. A small number of commenters questioned whether open-end credit should be covered at all. Some commenters urged limiting coverage to principal dwellings or owner-occupied dwellings. Other commenters suggested that more flexible rules be adopted to allow for changes in a maximum interest rate in certain instances during the term of an obligation. Most of the commenters that opposed the proposal did so because they opposed the law itself, not the Board's proposed rule implementing the law.

Following a further analysis of the law, and analysis of the comments, the Board is now adopting a final rule implementing section 1204. The final rule is much the same as the proposal but reflects some minor revisions. Some editorial revisions have been made to the regulatory text to more closely reflect the language of the statute and to provide more clarity. Footnote 50 has been clarified and expanded to cover both open-end and closed-end credit.

This notice provides guidance on a number of questions asked by commenters. (References are made to various sections of Regulation Z (12 CFR Part 226) and corresponding comments on those sections which are contained in the Official Staff Commentary to Regulation Z (12 CFR Part 226, Supp. I).) Much of this guidance will be incorporated into the seventh update to the staff commentary that will be published for comment in early December.

2. The Amendment to Regulation Z

The Board is adopting a rule amending Regulation Z to incorporate the substance of section 1204 into a new § 226.30 in Subpart D of the regulation. In addition, technical amendments are being made to § 226.1 of Regulation Z, in the paragraphs on authority, organization of the regulation, and enforcement and liability.

Section 226.30 limits the statutory requirement, that a maximum interest rate be set, to dwelling-secured extensions of consumer credit covered by the TILA and Regulation Z in which a creditor may make interest rate changes. Thus, the rule applies only to consumer credit and not business credit. As a result, an adjustable rate business purpose loan is not subject to § 226.30, even if the loan is secured by a dwelling. (See § 226.3(a), and the commentary to that section; see also § 226.2(a)(19) for the definition of a dwelling)

A. Credit Obligations Subject to § 226.30

Section 226.30 will apply to all closed-end credit transactions and open-end credit plans allowing for interest rate changes during the term of the obligation. As a result, most dwelling-secured extensions of credit for which Regulation Z variable rate disclosures must be given will be subject to § 226.30. (See § 226.6(a)(2)n. 12 and § 226.18(f); see also comment 6(a)(2)–2 and comments 18(f)–1 and 18(f)–6 for definitions and explanations of variable rate obligations and disclosure requirements). Section 226.30 applies to credit sales as well as to loans.

The following are examples of the types of closed-end transactions or open-end plans that are subject to § 226.30:

- Dwelling-secured open-end lines of credit in which the creditor has the contractual right to make interest rate changes during the plan, even if the adjustments apply to new advances only. (See comment 6(a)(2)–2)
- Renogotiable rate mortgage instruments, described in comment 18(f)–6 as a series of short-term loans where upon maturity the creditor is legally obligated to renew the loan. (The legal obligation of the parties to an extension of credit subject to Regulation Z is determined by applicable state or other law. See generally comments 17(c)(1)–1 and 17(c)(1)–(2)
- Multiple advance transactions disclosed as a single transaction, if the interest rate on the advances is unknown at consummation. (See § 226.17(c)(6)(i) and comment 17(c)(6)–1)
- Refinancings as defined in § 226.20(a)—entered into prior to December 9, 1987—of credit obligations that are dwelling-secured and that allow for interest rate changes
- Assumptions—entered into prior to December 9, 1987—of credit obligations that are dwelling-secured and that allow for interest rate changes (See generally discussion of assumptions in section F of this notice)
- Credit obligations allowing for interest rate changes to which a security interest in a dwelling is added on or after December 9, 1987
- Dwelling-secured credit obligations to which a variable rate feature is added on or after December 9, 1987

B. Credit Obligations Not Subject to § 226.30

Section 226.30 does *not* apply to dwelling-secured closed-end transactions and open-end credit plans in which the interest rate may *not* change during the term of the obligation. Therefore, the following types of transactions or plans are *not* subject to § 226.30.

- "Shared-equity" or "shared-appreciation" mortgages as described in comment 18(f)–6
- Fixed-rate multiple advance transactions in which each advance is disclosed as a separate transaction
- Fixed-rate balloon payment mortgages that the creditor may, but does not have a legal obligation to, renew at maturity. (The legal obligation of the parties to an extension of credit subject to Regulation Z is determined by applicable state law or other law.) See generally comments 17(c)(1)–1 and 17(c)(1)–2)

C. Statement of the Cap in Credit Contracts

Creditors will be required to specify in their credit contracts (the instrument signed that creates personal liability) a maximum interest rate (a lifetime cap) that could be imposed on credit obligations. Creditors may comply with the requirement, for example, by attaching an addendum to existing credit contracts, or typing or stamping a provision onto the credit contract, provided that such modifications are deemed part of the legal obligation under applicable state law. Creditors may set the lifetime cap at any amount they choose.

On loans with multiple variable rate features, creditors may establish a maximum interest rate for each variable rate feature or may establish one that will apply to all. For example, in a variable rate loan that has an option to convert to a fixed-rate (which is itself a variable rate feature) a creditor may set a maximum interest rate on each feature (one for the initial variable rate feature and one for the fixed-rate conversion option) or may establish one maximum interest rate applicable to all features.

State law may allow an interest rate after default to be higher than the contract rate; however, the default interest rate may not exceed the maximum interest rate on a credit obligation that is otherwise subject to the requirement of § 226.30.

The maximum interest rate must be stated either as a specified amount or in any other manner that would allow the consumer to easily ascertain, at the time of entering into the obligation, what the lifetime cap will be over the term of the obligation. For example, the following statements would be sufficiently specific:

- The maximum interest rate will not exceed X%.
- The interest rate will never be higher than X percentage points above the initial rate of Y%.
- The maximum interest rate will not exceed X% or the state usury ceiling, whichever is less.

The following statements would not comply with the regulation:

- The interest rate will never be higher than X percentage points over the going market rate.
- The interest rate will never be higher than X percentage points above (a rate to be determined at some future point in time).
- The interest rate will not exceed the state usury ceiling which is currently X%.

The latter example does not mean that a credit may not establish a state usury ceiling as the maximum rate to be imposed on a credit obligation, since choice of a maximum is within the creditor's discretion. The problem with the latter statement is that it suggests that if the state usury ceiling later increases, then the maximum rate imposed on the transaction will increase, without stating what the outer limit of an increase in the rate might be. (See example under permissible statements)

A creditor would be in compliance with § 226.30 by stating the maximum interest rate in terms of a maximum annual percentage rate that may be imposed. Under an open-end credit plan, this would be the corresponding (nominal) annual percentage rate. (See §§ 226.6(a) and 226.7(d))

Under Regulation Z, § 226.19, early TILA disclosures are required for certain closed-end residential mortgage transactions. Although the maximum interest rate set forth in the credit contract under § 226.30 must be stated with certainty, that requirement does not affect the disclosure requirements of § 226.19. Those disclosures may continue to be stated as estimates, where appropriate. (See comment 19(a)–2 and § 226.17(c))

D. Prospective Application

Section 226.30 does not cover credit obligations entered into prior to December 9, 1987. Consequently, new

advances under open-end credit plans existing prior to December 9, 1987 are not subject to § 226.30. Modifications of agreements entered into prior to December 9, 1987 are not covered by § 226.30; however, if a variable rate feature is added on or after December 9, 1987 to a dwelling-secured credit obligation, the obligation becomes subject to § 226.30. If a security interest in a dwelling is added on or after December 9, 1987, to a credit obligation with a variable rate feature, the obligation becomes subject to § 226.30.

In determining whether an obligation is entered into on or after December 9, 1987, the consumer's *signing* of the instrument that imposes personal liability (which is typically done at closing) governs whether an obligation is subject to the requirement in § 226.30. In some states, the signing of a commitment letter may create a binding obligation, for example, constituting "consummation" as defined in § 226.2(a)(13) which requires TILA disclosures to be given at that time. In this situation, it is still the actual date of the signing of the loan documents that would govern whether the transaction is subject to § 226.30.

E. Changes in the Maximum Interest Rate Cap

One issue raised by several commenters was whether the required interest rate cap on a loan could be changed during the term of the obligation. For example, they asked whether the maximum interest rate could be changed using the change in terms provision of Regulation Z, § 226.9(c), or whether the maximum interest rate could be changed by the creditor if a consumer and a lender agreed to changes in the terms and conditions of the original open-end or closed-end credit obligation.

The law requires that a maximum interest rate be set for the term of a loan. Under the Board's rule, a creditor would not be permitted to increase the maximum interest rate originally set unless the consumer and the creditor entered into a new obligation. Under an open-end plan subject to § 226.30, a creditor cannot raise the maximum interest rate on the plan by use of a change in terms notice. If a creditor were permitted to use a change in terms notice to increase a maximum interest rate that has been imposed on a plan, the creditor would not, in fact, have set a maximum rate on the plan in accordance with § 226.30.

A new maximum interest rate could be set only if there was a refinancing as defined in § 226.20(a) of Regulation Z or an open-end plan was closed and a new one opened. Thus, modifications of an existing agreement that do not constitute a refinancing or a new plan do not allow for a change in the maximum interest rate cap set under the original agreement, even if additional credit is extended. If an open-end plan subject to § 226.30 has a fixed maturity and a creditor renews the plan at maturity, without having a legal obligation to do so, a new maximum interest rate may be set at that time.

F. Assumptions

Under the Board's proposal, the assumption of an obligation subject to the new law would allow for a change in the maximum interest rate if the assumption met the test set forth in § 226.20(b). In § 226.20(b) only assumptions of purchase money residential mortgage transactions, in which a creditor formally assents to an assumption in writing, are considered new transactions for purposes of Truth in Lending disclosure. As several commenters pointed out, when a new obligor is substituted for the original party to a credit obligation, it essentially becomes a new loan. Under the final rule, for purposes of § 226.30, where an obligation subject to § 226.30 is assumed and the original obligor is released from liability, the maximum interest rate set on the obligation may be changed as part of the assumption agreement.

G. Truth in Lending Disclosure of Limitations on Increases

Various proposals providing for comprehensive revisions to Truth in Lending Act requirements for closed-end adjustable rate mortage loan disclosures and open-end home equity lines of credit are currently being considered for Board review. To relieve some of the burden of making multiple changes in TILA disclosures within a short period time—should the Board adopt these proposals—the Board is adopting an interim rule (as footnote 50 to § 226.30). The rule provides that between December 9, 1987 and October 1, 1988 compliance with § 226.30—that is, placing the maximum interest rate cap in the credit contract—will satisfy the Regulation Z requirement, contained in § 226.6(a)(2)n.12 and § 226.18(f)(2), to disclose a limit on rate increases on variable rate closed-end transactions and open-end plans. In other words, no revisions to Truth in Lending disclosure forms to add the limitations on an increase disclosure are required by this amendment to Regulation Z to implement section 1204 of the Competitive Equality Banking Act until October 1, 1988, provided that the requirement in § 226.30 is met.

Transition rules. In some instances the requirement to give TILA disclosures may not be contemporaneous with the date of signing loan documents. In situations in which TILA disclosures are given before December 9, 1987 and the signing may occur on or after December 9, 1987—thus triggering the § 226.30 requirement—the failure to include a maximum interest rate disclosure in TILA disclosures given at the earlier time would not violate the TILA, provided that § 226.30 is complied with—that is, the maximum interest rate is stated in the credit contract. (See generally discussion of prospective application in section D of this notice)

H. Creditor's Right To Terminate and Call a Loan Due Solely Because the Maximum Interest Rate Cap is Reached

In its September proposal, the Board expressed concern about the possibility that a creditor might terminate an open-end plan and call the oustanding balance payable in full—solely because the maximum interest rate cap is reached—could have an adverse effect on consumers. Since Regulation Z does not currently call for disclosure of this particular right to terminate, the Board solicited comment on whether a creditor that reserves this right should be required to specifically disclose this fact.

A majority of the commenters that responded to this particular issue shared the Board's concern about the right and supported disclosure of the right. A few commenters cautioned that highlighting this one right of termination might encourage the practice or, alternatively, might confuse a consumer into thinking that it is the only reason that an account might be called. Although the Board solicited comment on disclosure of the right, a few commenters went further, to say the right itself was undesirable, and indicated their support for its being prohibited. Although the Board believes that disclosure of this matter should be made, it is not now making it mandatory. Rather, the Board has decided to consider the question of such disclosure as part of a comprehensive proposal for new home equity line disclosures under the TILA that the Board will soon be reviewing. This decision is based on the Board's desire to avoid the unnecessary burden of multiple changes in TILA disclosure forms within a short period of time, should the Board decide to propose new home equity line disclosures.

3. Economic Impact Statement

The Board's Division of Research and Statistics has prepared an economic impact statement on the revisions to Regulation Z. A copy of the analysis may be obtained from Publications Services, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452–3245.

List of Subjects in 12 CFR Part 226

Advertising, Banks, banking, Consumer protection, Credit, Federal Reserve System, Finance, Penalties, Rate Limitations, Truth in lending.

4. Text of the Revisions

Pursuant to authority granted in Title XII, section 1204(b) of the Competitive Equality Banking Act of 1987, Pub. L. No. 100–86, 101 Stat. 552, the Board is amending Regulation Z (12 CFR Part 226) as follows:

PART 226—TRUTH IN LENDING

1. The authority citation for Part 226 is revised to read as follows:

Authority: Sec. 105, Truth in Lending Act, as amended by sec. 605, Pub. L. 96–221, 94 Stat. 170 (15 U.S.C. 1604 et seq.); sec. 1204(c), Competitive Equality Banking Act, Pub. L. 100–86, 101 Stat. 552.

2. Section 226.1 is amended by revising paragraphs (a), (d)(4) and (e) to read as follows:

Subpart A—General

§ 226.1 Authority, purpose, coverage, organization, enforcement and liability.

(a) *Authority.* This regulation, known as Regulation Z, is issued by the Board of Governors of the Federal Reserve System to implement the federal Truth in Lending and Fair Credit Billing Acts, which are contained in title I of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 *et seq.*). This regulation also implements title XII, section 1204 of the Competitive Equality Banking Act of 1987 (Pub. L. 100–86, 101 Stat. 552). Information-collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. 3501 *et seq.* and have been assigned OMB No. 7100–0199.

* * * * *

(d) * * *

(4) Subpart D contains rules on oral disclosures, Spanish language disclosure in Puerto Rico, record retention, effect on state laws, state exemptions, and rate limitations.

* * * * *

(e) *Enforcement and liability.* Section 108 of the act contains the administrative enforcement provisions. Sections 112, 113, 130, 131, and 134 contain provisions relating to liability for failure to comply with the requirements of the act and the regulation. Section 1204(c) of Title XII of the Competitive Equality Banking Act of 1987, Pub. L. No. 100–86, 101 Stat. 552, incorporates by reference administrative enforcement and civil liability provisions of sections 108 and 130 of the act.

* * * * *

3. A new § 226.30 is added to Subpart D to read as follows:

Subpart D—Miscellaneous

§ 226.30 Limitation on rates.

A creditor shall include in any consumer credit contract secured by a dwelling and subject to the act and this regulation the maximum interest rate that may be imposed during the term of the obligation [50] when:

(a) In the case of closed-end credit, the annual percentage rate may increase after consummation, or

(b) In the case of open-end credit, the annual percentage rate may increase during the plan.

By order of the Board of Governors of the Federal Reserve System, dated November 5, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87–26049 Filed 11–6–87; 9:16 am]

BILLING CODE 6210–01–M

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[50] Compliance with this section will constitute compliance with the disclosure requirements on limitations on increases in footnote 12 to §§ 226.6(a)(2) and 226.18(f)(2) until October 1, 1988.

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4	14.00	Jan. 1, 1987
5 Parts:		
1-1199	25.00	Jan. 1, 1987
1200-End, 6 (6 Reserved)	9.50	Jan. 1, 1987
7 Parts:		
0-45	25.00	Jan. 1, 1987
46-51	16.00	Jan. 1, 1987
52	23.00	Jan. 1, 1987
53-209	18.00	Jan. 1, 1987
210-299	22.00	Jan. 1, 1987
300-399	10.00	Jan. 1, 1987
400-699	15.00	Jan. 1, 1987
700-899	22.00	Jan. 1, 1987
900-999	26.00	Jan. 1, 1987
1000-1059	15.00	Jan. 1, 1987
1060-1119	13.00	Jan. 1, 1987
1120-1199	11.00	Jan. 1, 1987
1200-1499	18.00	Jan. 1, 1987
1500-1899	9.50	Jan. 1, 1987
1900-1944	25.00	Jan. 1, 1987
1945-End	26.00	Jan. 1, 1987
8	9.50	Jan. 1, 1987
9 Parts:		
1-199	18.00	Jan. 1, 1987
200-End	16.00	Jan. 1, 1987
10 Parts:		
0-199	29.00	Jan. 1, 1987
200-399	13.00	Jan. 1, 1987
400-499	14.00	Jan. 1, 1987
500-End	24.00	Jan. 1, 1987
11	11.00	July 1, 1987
12 Parts:		
1-199	11.00	Jan. 1, 1987
200-299	27.00	Jan. 1, 1987
300-499	13.00	Jan. 1, 1987
500-End	27.00	Jan. 1, 1987
13	19.00	Jan. 1, 1987
14 Parts:		
1-59	21.00	Jan. 1, 1987
60-139	19.00	Jan. 1, 1987
140-199	9.50	Jan. 1, 1987
200-1199	19.00	Jan. 1, 1987
1200-End	11.00	Jan. 1, 1987
15 Parts:		
0-299	10.00	Jan. 1, 1987
300-399	20.00	Jan. 1, 1987
400-End	14.00	Jan. 1, 1987
16 Parts:		
0-149	12.00	Jan. 1, 1987
150-999	13.00	Jan. 1, 1987
1000-End	19.00	Jan. 1, 1987
17 Parts:		
1-199	14.00	Apr. 1, 1987
200-239	14.00	Apr. 1, 1987
240-End	19.00	Apr. 1, 1987
18 Parts:		
1-149	15.00	Apr. 1, 1987
150-279	14.00	Apr. 1, 1987
280-399	13.00	Apr. 1, 1987
400-End	8.50	Apr. 1, 1987
19 Parts:		
1-199	27.00	Apr. 1, 1987
200-End	5.50	Apr. 1, 1987
20 Parts:		
1-399	12.00	Apr. 1, 1987
400-499	23.00	Apr. 1, 1987
500-End	24.00	Apr. 1, 1987
21 Parts:		
1-99	12.00	Apr. 1, 1987
100-169	14.00	Apr. 1, 1987
170-199	16.00	Apr. 1, 1987
200-299	5.50	Apr. 1, 1987
300-499	26.00	Apr. 1, 1987
500-599	21.00	Apr. 1, 1987
600-799	7.00	Apr. 1, 1987
800-1299	13.00	Apr. 1, 1987
1300-End	6.00	Apr. 1, 1987
22 Parts:		
1-299	19.00	Apr. 1, 1987
300-End	13.00	Apr. 1, 1987
23	16.00	Apr. 1, 1987
24 Parts:		
0-199	14.00	Apr. 1, 1987
200-499	26.00	Apr. 1, 1987
500-699	9.00	Apr. 1, 1987
700-1699	18.00	Apr. 1, 1987
1700-End	12.00	Apr. 1, 1987
25	24.00	Apr. 1, 1987
26 Parts:		
§§ 1.0-1.60	12.00	Apr. 1, 1987
§§ 1.61-1.169	22.00	Apr. 1, 1987
§§ 1.170-1.300	17.00	Apr. 1, 1987
§§ 1.301-1.400	14.00	Apr. 1, 1987
§§ 1.401-1.500	21.00	Apr. 1, 1987
§§ 1.501-1.640	15.00	Apr. 1, 1987
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§§ 1.851-1.1000	27.00	Apr. 1, 1987
§§ 1.1001-1.1400	16.00	Apr. 1, 1987
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40-49	12.00	Apr. 1, 1987
50-299	14.00	Apr. 1, 1987
300-499	15.00	Apr. 1, 1987
500-599	8.00	[2] Apr. 1, 1980
600-End	6.00	Apr. 1, 1987
27 Parts:		
1-199	21.00	Apr. 1, 1987
200-End	13.00	Apr. 1, 1987
28	21.00	July 1, 1986
29 Parts:		
*0-99	16.00	July 1, 1987
100-499	7.00	July 1, 1987
500-899	24.00	July 1, 1987
900-1899	10.00	July 1, 1987
1900-1910	27.00	July 1, 1986
1911-1925	6.50	July 1, 1987

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30 Parts:		
0–199	16.00	[3] July 1, 1985
200–699	8.50	July 1, 1986
700–End	18.00	July 1, 1987
31 Parts:		
0–199	12.00	July 1, 1987
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800–End	16.00	July 1, 1986
33 Parts:		
1–199	27.00	July 1, 1986
200–End	19.00	July 1, 1987
34 Parts:		
1–299	20.00	July 1, 1987
300–399	11.00	July 1, 1987
400–End	23.00	July 1, 1987
35	9.00	July 1, 1987
36 Parts:		
1–199	12.00	July 1, 1987
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37	13.00	July 1, 1987
38 Parts:		
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40 Parts:		
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*400–424	22.00	July 1, 1987
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101	23.00	July 1, 1987
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42 Parts:		
1–60	15.00	Oct. 1, 1986
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400–429	20.00	Oct. 1, 1986
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44	17.00	Oct. 1, 1986
45 Parts:		
1–199	13.00	Oct. 1, 1986
200–499	9.00	Oct. 1, 1986
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1–40	13.00	Oct. 1, 1986
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200–499	19.00	Oct. 1, 1986
500–End	9.50	Oct. 1, 1986
47 Parts:		
0–19	17.00	Oct. 1, 1986
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7–14	23.00	Oct. 1, 1986
15–End	22.00	Oct. 1, 1986
49 Parts:		
1–99	10.00	Oct. 1, 1986
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178–199	19.00	Oct. 1, 1986
200–399	17.00	Oct. 1, 1986
400–999	21.00	Oct. 1, 1986
1000–1199	17.00	Oct. 1, 1986
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1987. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[6] No amendments to this volume were promulgated during the period Oct. 1, 1985 to Sept 30, 1986. The CFR volume issued as of Oct. 1, 1985 should be retained.